



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-66
October 23, 2001

MISCELLANEOUS ADMINISTRATIVE REVISIONS

BACKGROUND: FAC 97-20 amended various FAR subparts and clauses to implement sections 501(c), 502(a)(2), and 604(d) of the Veterans Entrepreneurship and Small Business Development Act of 1999, which established new assistance programs for veterans and service-disabled veterans who own and operate small businesses. FAC 97-22 amended FAR Subpart 32.4 to change certain terminology (e.g., change the word "bank" to "financial institution"), and updated references in FAR Subpart 42.2 to the Defense Contract Management Agency. FAC 97-26 designated Federal Business Opportunities ("FedBizOpps") as the Governmentwide Point of Entry (GPE). The GPE provides a single point of universal electronic public access to Governmentwide procurement opportunities. This PN makes changes to NFS Parts 1804, 1815, 1816, 1819, 1832, 1842, and 1844, necessary to conform to the changes in FAC's 97-20, 97-22 and 97-26.

Miscellaneous changes dealing with NASA internal and administrative matters included in this PN are:

- (a) Revised procedures for electronic submission of Master Buy Plans (Part 1807);
- (b) A new paragraph (c) is added to section 1817.503 to clarify the authority to approve D&Fs under the Economy Act where the servicing agency is not subject to the FAR;
- (c) Update of responsible offices and terminology used for restrictions on printing and duplicating (Part 1808 and the clause at 1852.208-81); and
- (d) Update of section 1804.570-2 to indicate that EPS will automatically transmit synopses to the GPE. The update retains the exemption for posting of construction and other large drawings at 1804.570-2(c)(2).

This PN also makes amendments to the NFS to: update url citations, office codes, and document references; remove references to obsolete mil-standards; and make editorial corrections to definition titles and misspellings.

ACTION REQUIRED BY CONTRACTING OFFICERS: All solicitations issued after October 23, 2001, must include the revised clause 1852.204-74. Solicitations issued after October 23, 2001, which require the use of either 1852.208-81, Alt I to 1852.223-73, or 1852.243-70 must use the revised clause. Solicitations issued before October 23, 2001, may be amended to include the revised clauses if including it would not unduly delay the acquisition.

CLAUSE CHANGES: This PN makes the following changes:

- (a) 1852.204-74, Central Contractor Registration, paragraph (a)(4) title amended;
- (b) 1852.208-81, Restrictions on Printing and Duplication, text updated;
- (c) 1852.223-73, Alt I, Safety and Health Plan, date revised to reflect correction of typo already corrected but not published; and
- (d) 1852.243-70, Engineering Change Proposals, deletes reference to cancelled MIL-STD-973.

PARTS AFFECTED: Changes are made in Parts 1804, 1807, 1808, 1815, 1816, 1817, 1819, 1822, 1832, 1835, 1836, 1837, 1842, 1843, 1844, and 1852.

REPLACEMENT PAGES: You may use the enclosed pages to replace 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 4:9, 4:10, 4:11, 4:12, 4:13, 4:14, 7:7, 7:8, 7:9, 8:7, 15:17, 15:18, 15:29, 15:30, 16:1, 16:2, 16:9, 16:10, 16:11, 16:12, 16:13, 17:3, 17:4, 17:5, 17:6, 19:1, 19:2, 19:3, 19:4, 19:5, 19:6, 19:7, 19:8, Part 1822, 32:1, 32:2, 32:3, 32:4, 35:3, 35:4, 35:5, 35:6, 36:3, 36:4, 37:1, 37:2, 42:5, 42:6, 42:13, 42:14, 43:1, 43:2, 44:1, 44:2, 44:3, 52:5, 52:6, 52:8.1, 52:8.2, 52:30.1, 52:30.2, 52:77, 52:78, 52-91, 52-92, 52-93, 52-94, 52-97, and 52-98 of the NFS.

TYPE OF RULE AND PUBLICATION DATE: This PN was published as a final rule in the Federal Register (66 FR 53545-53549, October 23, 2001).

PIC CANCELLATION: PIC 01-06, On-line Master Buy Plan Database, is cancelled.

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Enclosures

1804.7401	Definitions.
1804.7402	Policy.
1804.7403	Procedures.
1804.7404	Solicitation provisions and contract clauses.

PART 1804

ADMINISTRATIVE MATTERS

Subpart 1804.1--Contract Execution

1804.103 Contract clause.

The contracting officer shall include the clause at FAR 52.204-1, Approval of Contract, in solicitations, contracts, and supplemental agreements that require higher level approval. For actions requiring Headquarters approval, insert "NASA Associate Administrator for Procurement" in the clause's blank space.

1804.170 Contract effective date.

(a) "**Contract effective date**" means the date agreed upon by the parties for beginning the period of performance under the contract. In no case shall the effective date precede the date on which the contracting officer or designated higher approval authority signs the document.

(b) Costs incurred before the contract effective date are unallowable unless they qualify as precontract costs (see FAR 31.205-32) and the clause prescribed at 1831.205-70 is used.

Subpart 1804.2--Contract Distribution

1804.202 Agency distribution requirements.

In addition to the requirements in FAR 4.201, the contracting officer shall distribute one copy of each R&D contract, including the Statement of Work, to the NASA Center for AeroSpace Information (CASI), Attention: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076-1320.

1804.203 Taxpayer identification information.

Instead of using the last page of the contract to provide the information listed in FAR 4.203, NASA installations may allow contracting officers to use a different distribution method, such as annotating the cover page of the payment office copy of the contract.

Subpart 1804.4--Safeguarding Classified Information Within Industry

1804.402 General.

(b) NASA security policies and procedures are prescribed in NPD 1600.2A, NASA Security Policy; NPG 1600.6A, Communications Security Procedures and Guidelines; NPG 1620.1, Security Procedures and Guidelines; NPG 2810.1 and NPD 2810.1 Security of Information Technology.

1804.404-70 Contract clause.

The contracting officer shall insert the clause at 1852.204-75, Security Classification Requirements, in solicitations and contracts if work to be performed will require security clearances. This clause may be modified to add instructions for obtaining security clearances and access to security areas that are applicable to the particular acquisition and installation.

1804.470 Security requirements for unclassified information technology resources.

1804.470-1 Scope.

This section implements NASA's acquisition-related aspects of Federal policies for assuring the security of unclassified automated information resources

1804.470-2 Policy.

(a) NASA policies and procedures on security for automated information technology are prescribed in NPD 2810.1, Security of Information Technology, and in NPG 2810.1, Security of Information Technology. The provision of information technology (IT) security in accordance with these policies and procedures, is required in all contracts that include IT resources or services in which a contractor must have physical or electronic access to NASA's sensitive information contained in unclassified systems that directly support the mission of the Agency. This includes information technology, hardware, software, and the management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. Examples of tasks that require security provisions include:

- (1) Computer control of spacecraft, satellites, or aircraft or their payloads;
- (2) Acquisition, transmission or analysis of data owned by NASA with significant replacement costs should the contractor's copy be corrupted; and
- (3) Access to NASA networks or computers at a level beyond that granted the general public, e.g. bypassing a firewall.

(b) The contractor must not use or redistribute any NASA information processed, stored, or transmitted by the contractor except as specified in the contract.

1804.470-3 Security plan for unclassified Federal Information Technology systems.

(a) The requiring activity with the concurrence of the Center Chief Information Officer (CIO), and the Center Information Technology (IT) Security Manager, must determine whether an IT Security Plan for unclassified information is required.

(b) IT security plans must demonstrate a thorough understanding of NPG 2810.1 and NPD 2810.1 and must include, as a minimum, the security measures and program safeguards planned to ensure that the information technology resources acquired and used by contractor and subcontractor personnel --

- (1) Are protected from unauthorized access, alteration, disclosure, or misuse of information processed, stored, or transmitted;
- (2) Can maintain the continuity of automated information support for NASA missions, programs, and functions;
- (3) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the systems' integrity and accuracy;

(4) Have appropriate technical, personnel, administrative, environmental, and access safeguards;

(5) Document and follow a virus protection program for all IT resources under its control; and

(6) Document and follow a network intrusion detection and prevention program for all IT resources under its control.

(c) The contractor must be required to develop and maintain an IT System Security Plan, in accordance with NPG 2810.1, for systems for which the contractor has primary operational responsibility on behalf of NASA.

(d) The contracting officer must obtain the concurrence of the Center Chief of Security before granting any contractor requests for waiver of the screening requirement contained in the clause at 1852.204-76.

1804.470-4 Contract clauses.

The contracting officer must insert a clause substantially the same as the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts which require submission of an IT Security Plan.

Subpart 1804.5--Electronic Commerce in Contracting

1804.570 NASA Acquisition Internet Service (NAIS).

1804.570-1 General.

The NASA Acquisition Internet Service (NAIS) provides an electronic means for posting procurement synopses, solicitations, and associated information on the NAIS Internet site which in turn, automatically posts relevant information onto the Governmentwide point of entry (GPE).

1804.570-2 Electronic Posting System.

(a) The NAIS Electronic Posting System (EPS) enables the NASA procurement staff to --
(1) Electronically create and post synopses on the NAIS Internet site and the GPE; and
(2) Post solicitation documents, including solicitation amendments or cancellations, and other procurement information on the NAIS Internet site with linked references on the GPE.

(b) The EPS maintains an on-line index linking the posted synopses and solicitations for viewing and downloading.

(c) The EPS shall be used to --
(1) Create and post all synopses in accordance with FAR Part 5 and NFS 1805; and
(2) Post all competitive solicitation files, excluding large construction and other drawings, for acquisitions exceeding \$25,000.

(d) The NAIS is the official site for solicitation postings which in turn, automatically posts relevant information onto the Government-wide point of entry (GPE). In the event supporting materials, such as program libraries, cannot be reasonably accommodated by the NAIS, Internet sites external to NAIS may be established after coordination with the contracting officer. Such sites must be linked from the NAIS business opportunities index where the solicitation resides. External sites should not duplicate any of the files residing on the NAIS.

Subpart 1804.6--Contract Reporting

1804.601 Record requirements.

The Headquarters Office of Procurement (Code HS) is responsible for meeting the requirements of FAR 4.601, based on installation submission of Individual Procurement Action Reports (NASA Form 507 series) data.

1804.602 Federal Procurement Data System.

(d) Code HS is responsible for requesting, obtaining, and reporting Contractor Establishment Codes to the FPDS.

1804.670 Individual Procurement Action Report (NASA Form 507 series).

The Individual Procurement Action Report and Supplements (NASA Form 507 series) provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to Congress, Federal Procurement Data Center, and other Federal agencies. The preparation and utilization of the NASA Form 507 series are integral parts of the agencywide Financial and Contractual Status (FACS) system.

1804.670-1 Applicability and coverage.

The following procurement actions are individually reportable and require the completion of one or more of the forms in the 507 series.

(a) *Initial basic procurements.*

- (1) All contracts, regardless of dollar obligation amount.
- (2) All grants, cooperative agreements, and funded Space Act agreements.
- (3) Intragovernmental procurements and purchase orders when the initial value is more than \$25,000.
- (4) All purchase orders for advisory and assistance services.
- (5) Purchase orders of \$25,000 or less for services within the four designated industry groups identified at FAR 19.1005(a) under the Small Business Competitiveness Demonstration Program. (These actions are not FACS reportable, but are required for FPDS reports.)

(b) *Modifications.* Modifications that (1) obligate or deobligate funds, regardless of dollar amount, (2) change the estimated cost and/or fee, (3) extend the completion date, or (4) add or change procurement statistics previously reported.

1804.670-2 Submission due date.

The FACS report shall have information as of the last day of the month and shall arrive in NASA Headquarters not later than the close of business on the fifth work day following each month being reported. The installation procurement officer should establish an agreement with the installation financial officer on a cut-off date for processing contractual documents to ensure that the FACS procurement submission and the FACS financial submission for the month include the same contracts.

1804.670-3 Preparing Individual Procurement Action Reports (NASA Forms 507, 507A, 507B, 507G, and 507M).

(a) The information required by the following forms shall be provided when submitting individual Procurement Action Reports:

(1) New contract awards - NASA Forms 507, 507A, and 507B.

(2) New grants, cooperative agreements, funded Space Act agreements, intragovernmental agreements, and orders against federal supply schedules - NASA Forms 507G and 507B.

(3) Modifications to any procurement action - NASA Forms 507M and, if necessary, 507B.

(b) The NASA Forms 507 series shall be prepared in accordance with instructions issued by Code HS. These instructions will be issued and updated through Procurement Information Circulars (PICs).

1804.671 Committee on Academic Science and Engineering (C.A.S.E.) Report.

NASA Form 1356, C.A.S.E. Report on College and University Projects, shall be prepared for awards to nonprofit institutions of higher education or to nonprofit institutions that are operationally affiliated or integrated with an educational institution. Information on this form is used to produce reports required by the National Science Foundation and to respond to inquiries. Submission is required regardless of instrument type (contract, grant, cooperative agreement, or funded Space Act agreement) and type of proposal (solicited or unsolicited). Instructions appear on the form itself and constitute the detailed guidance for preparation and submission. The form, which is either included with the acquisition package or initiated by the contracting office, shall be completed, reviewed, and promptly forwarded upon award to the Headquarters Office of Human Resources and Education (Code FE).

Subpart 1804.8--Government Contract Files

1804.802-70 Handling of classified material.

When a contract is unclassified, classified material relating to that contract shall be maintained in a separate file folder and container, and the unclassified folder shall be marked to indicate the location of the classified material. The front and back of each folder containing classified material shall be marked with the highest classification assigned to any document in the folder.

1804.803 Contents of contract files.

1804.803-70 Checklist.

NASA Form 1098, Checklist for Contract Award File Content, shall be used as the "top page" in contract files.

1804.804 Closeout of contract files.

1804.804-2 Closeout of the contracting office files if another office administers the contract.

(b) Upon receiving the NASA Form 1611 or DD Form 1594, Contract Completion Statement, from the contract administration office and complying with FAR 4.804-2(b), the contracting officer shall complete the form.

1804.804-5 Procedures for closing out contract files.

(a) When the contracting office retains contract administration (excluding acquisitions under the simplified acquisition threshold), the contracting officer must comply with FAR 4.804-5(a) by completing NASA Form 1612, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record.

(b) To comply with FAR 4.804-5(b), the contracting officer must complete NASA Form 1611 or DD Form 1594, Contract Completion Statement, except for acquisitions under the simplified acquisition threshold.

1804.805 Storage, handling, and disposal of contract files.

(a) See NPG 1441.1C, Records Retention Schedules.

1804.805-70 Review, separation, and retirement of contract files.

(a) Upon determination of contract completion under the procedures outlined in 1804.804, each office shall remove the official contract files from the active file series, mark each file folder with "Completed (Date)", and place the folder in a completed (inactive) contract file series. Separate series should be established for contracts of \$25,000 or less and for contracts of more than \$25,000, to facilitate later disposal. Any original or official file copies of documents contained in duplicate or "working" contract files shall be removed and placed in the appropriate official file; any remaining material in the duplicate or "working" file shall be destroyed immediately or segregated and marked for early disposal.

(b) Each office shall review contractor "general" files (i.e., a file containing documents relating generally to a contractor rather than a specific contract) at least once annually and remove documents that --

(1) Are obsolete or superseded documents relating generally to the contractor (e.g., documents no longer pertinent to any aspect of a contractor's current or future capability, performance, or programs, and documents relating to a contractor that is no longer a possible source of supplies, services, or technical assistance) and dispose of the documents as authorized in 1804.805; or

(2) Pertain only to completed contracts. Place those files that are not routine in nature in inactive files for later disposal, and immediately dispose of routine documents as authorized in NPG 1441.1C, Records Retention Schedules.

Subpart 1804.9 -- Taxpayer Identification Number Information

1804.904 Reporting payment information to the IRS.

Each NASA installation, that has its own employer identification number, may elect to report to the IRS payments under purchase orders and contracts for merchandise and other exempt bills.

Subpart 1804.70--Transfer of Contracting Office Responsibility

1804.7000 Scope of subpart.

This subpart contains policies and procedures applicable to the transfer of contracts between NASA installations.

1804.7001 Definition.

"Transfer of a contract," as used in this subpart, means that process whereby a contract and all future responsibility for a contract held by one installation are transferred or reassigned in writing to another installation.

1804.7002 Approval of Transfer Requests.

(a) The approval authority for requests to transfer a contract is the official in charge of the cognizant Headquarters program office or designee. Requests for approval shall be submitted by the director of the transferring installation after receiving the concurrence of the director of the receiving installation. Concurrence of the Associate Deputy Administrator (Code AI) is also required for a transfer where an installation's roles and missions may be affected.

(b) Approval of a program transfer by the cognizant Headquarters official constitutes approval to transfer program-related contracts.

1804.7003 Responsibilities of the contracting officer of the transferring installation.

1804.7003-1 Coordinations.

The contracting officer of the transferring installation shall take the following steps before transferring the contract:

(a) Agree on a plan and schedule with the contracting officer of the receiving installation for transferring contract responsibility and contract files.

(b) Coordinate with the following offices:

(1) Financial Management Office, to determine the contract financial records to be transferred and the method, timing, and dollar amount of such transfers.

(2) Technical (Engineering and Project) Office, to determine the status of any outstanding engineering changes.

(3) Reliability and Quality Assurance Office, to determine status and method of transferring the reliability and quality assurance functions.

(4) Industrial Property and Facilities Office, to determine the method of transferring the Government property records.

(5) Transportation Office, to determine the status of bills of lading furnished the contractor.

(6) Security Office, to determine whether any classified material is outstanding and whether special precautions are necessary during the transfer process.

(7) Other organizational elements, to determine the status of any other actions such as new technology, materials reports, PERT, and safety.

1804.7003-2 File inventory.

The contracting officer of the transferring installation shall prepare an inventory of the contract file. This inventory shall also include a separate listing of all outstanding requests for contract administration assistance issued to other Government agencies, indicating the name and address of the agency office, functions requested to be performed, estimated cost of the services, and estimated reimbursement due the administration agency for the services yet to be performed for each requested function. Copies of this inventory shall be provided to the contracting officer of the receiving installation.

1804.7003-3 Notifications.

The contracting officer of the transferring installation shall provide written notification of the planned transfer to the contractor and all agencies performing or requested to perform administration services.

1804.7003-4 Transfer.

(a) Upon completion of the actions described in 1804.7003-1 through 1804.7003-3, the contracting officer of the transferring installation shall issue a letter to the contractor, agencies performing contract administration functions, contracting officer representatives, and the contracting officer of the receiving installation. This letter shall provide notification of the transfer date, termination of appointment of the contracting officer's representatives, and the name, mailing address, and telephone number of the contracting officer of the receiving installation.

(b) After issuing the letters described in 1804.7003-4(a), the contracting officer of the transferring installation shall send the contract file to the contracting officer of the receiving installation with a letter transferring contract responsibility. This letter shall contain a provision for acceptance of the responsibility for the contract and its related files by the contracting officer of the receiving installation.

1804.7003-5 Retention documentation.

The contracting officer of the transferring installation shall retain for permanent file a copy of the approvals and concurrences required by 1804.7002, the transfer acceptance letter of the contracting officer of the receiving installation, and any additional documents necessary for a complete summary of the transfer action.

1804.7004 Responsibilities of the contracting officer of the receiving installation.

1804.7004-1 Pre-transfer file review.

The contracting officer of the receiving installation shall review the contract, letters of request, actions in process, and other related files and to request corrective action, if necessary, before the official transfer of the contract. This review may be waived by written notification to the contracting officer of the transferring installation.

1804.7004-2 Post-transfer actions.

The contracting officer of the receiving installation shall--

- (a) Provide the contracting officer of the transferring installation written acceptance of contract responsibility and receipt of the contract files;
- (b) Inform all offices affected within the installation of the receipt of the contract;
- (c) Appoint new contracting officer's technical representatives, as necessary;
- (d) Issue a contract modification to provide for the administrative changes resulting from the transfer action (e.g., identifying offices responsible for performing contract administration and making payment and the office to which vouchers, reports, and data are to be submitted);
- (e) Provide copies of the contract documents to affected installation offices; and
- (f) If appropriate, supplement the letter of request to the Government agency providing contract administration services to reflect the changes resulting from the transfer action. The supplement

may terminate or amend an existing contract administration support arrangement or may request support in additional areas.

Subpart 1804.71--Uniform Acquisition Instrument Identification

1804.7100 Scope of subpart.

This subpart contains the procedures for uniform numbering of NASA solicitations, contracts (including letter contracts), purchase orders (including requests to other Government agencies), basic ordering agreements, other agreements between the parties involving the payment of appropriated funds or collection of funds for credit to the Treasury of the United States, and modifications or supplements to these instruments.

1804.7101 Policy.

(a) Contractual documents shall be numbered with approved prefixes and serial numbers as prescribed in this subpart. If other identification is required for center purposes, it shall be placed on the document in such a location as to clearly separate it from the identification number.

(b) The identification number shall consist of not more than 11 alpha-numeric characters positioned as prescribed in this subpart and shall be retained unchanged for the life of the particular instrument.

1804.7102 Prefixes.

(a) Approved prefixes are as follows:

INSTALLATION CONTRACT PURCHASE	CONTRACT PREFIX	PURCHASE ORDER PREFIX
Ames Research Center	NAS 2	A
Dryden Flight Research Center	NAS 4	E
Glenn Research Center at Lewis Field	NAS 3	C
Goddard Space Flight Center	NAS 5	S
Headquarters	NASW	W
Lyndon B. Johnson Space Center	NAS 9	T
John F. Kennedy Space Center	NAS10	CC
Langley Research Center NAS 1 L	NAS 1	L
George C. Marshall Space Flight Center	NAS 8	H
NASA Management Office- JPL	NAS 7	WO

PROCUREMENT NOTICE (PN) 97-66 REPLACEMENT PAGE

4:12

John C. Stennis Space Center	NAS 13	NS
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(b) The contract prefix shall be used for the following documents:

(1) Contracts, including letter contracts, indefinite-delivery contracts, utilities contracts, leases of real property and renewals.

(2) Easements.

(3) Basic ordering agreements.

(4) Other written agreements involving payment or receipt of funds not covered by 1804.7102(e).

(c) Contracts totally funded under reimbursable arrangements with the Department of Energy shall use a DEN prefix instead of the NAS prefix (e.g., DEN 8 for Marshall).

(d) Space Act agreements awarded under the authority of Section 203(c)(5) or 203(c)(6) of the Space Act shall use an NCA prefix instead of the NAS prefix (e.g., NCA 8 for Marshall).

(e) The purchase order prefix shall be used for purchase orders (including blanket purchase agreements) and requests to other Government agencies to furnish supplies or services.

(f) Solicitations shall be numbered in accordance with installation procedures, except that in all cases the identifying number shall begin with the portion of the installation's contract prefix following "NAS."

(g) If a prefix is required for an installation or office not listed in this subsection, a request for a prefix assignment shall be submitted to the Headquarters Office of Procurement (Code HS).

1804.7103 Serial numbers.

(a) Installations shall number contracts and agreements identified in 1804.7102(b) serially by fiscal year. The serial number shall be five digits beginning with a two-digit fiscal year identifier followed by a three digits commencing with "001" and continuing in succession. For example, the first contracts awarded by Ames Research Center in fiscal year 1997 shall be numbered NAS 2 97001 and NAS 2 97002. Fiscal year identification is optional for Space Act agreements.

(b) Serial numbers for purchase orders shall be assigned serially without fiscal year identification. When the series of numbers exceeds five digits (over 99,999), a new series shall be used, beginning the series with number "1" and followed by the capital letter "A." Should additional series become necessary, they will be distinguished by the capital letters "B," "C," and so forth, as may be required, except that the letters "I" and "O" shall not be used.

1804.7104 Modifications of contracts or agreements.

(a) Modifications of definitive or letter contracts or agreements shall (1) bear the same identification as the contract or agreement being modified and (2) be numbered consecutively for each contract or agreement, beginning with Modification Number 1, regardless of whether the modification is accomplished by unilateral or bilateral action. Except for termination notices, modifications shall be effected by the use of Standard Form 30, Amendment of Solicitation/Modification of Contract.

(b) Definitive contracts superseding letter contracts shall retain the same contract number as that originally assigned to the letter contract. Actions definitizing letter contracts are considered modifications and shall be assigned modification numbers in accordance with paragraph (a) of this subsection.

Subpart 1804.72--Review and Approval of Contractual Instruments

1804.7200 Contract review by Headquarters.

(a) Requests for approval of contracts and supplemental agreements by the Associate Administrator for Procurement shall be submitted to the Headquarters Office of Procurement (Code HS) in sufficient time to allow a minimum of 15 days for review.

(b) Each request for approval shall be accompanied by (1) five copies of the contractual document, one of which has been executed by the contractor and contracting officer, and (2) the official contract file containing the appropriate documentation as set forth in FAR 4.803(a). However, for the items specified in FAR 4.803(a)10, (11), and (12), the contracting officer shall provide documentation pertaining only to the successful offeror; and, in lieu of the items specified in FAR 4.803(a)(26)(ii) and (iii), the contracting officer shall provide an index briefly describing the content of all previous modifications.

(c) The approval required under this section shall be made by signature of the Associate Administrator for Procurement on the contract/supplemental agreement.

Subpart 1804.73--Procurement Requests

1804.7301 General.

(a) Except in unusual circumstances, the contracting office shall not issue solicitations until an approved procurement request (PR), containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions up to the point of contract obligation before receipt of the PR certifying that funds are available when -

- (1) Such action is necessary to meet critical program schedules;
- (2) Program authority has been issued and funds to cover the acquisition will be available prior to the date set for contract award or contract modification;
- (3) The procurement officer authorizes such action in writing before solicitation issuance; and
- (4) The solicitation includes the clause at FAR 52.232-18, Availability of Funds. The clause shall be deleted from the resultant contract.

(b) The contracting office shall not issue either a draft or final solicitation until a PR, either planning or final, has been received that contains an NPG 7120.5 certification. That certification must be made by the project or program office that initiated the PR, or the PR approval authority when there is no project or program office. The certification must state that either -

- (1) The requested action is not in support of programs and projects subject to the requirements of NPG 7120.5, or
- (2) The requested action is in support of programs and projects subject to the requirements of NPG 7120.5, and -
 - (i) All NPG 7120.5 required documentation is current and has been approved; or
 - (ii) Authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

Subpart 1804.74--Central Contractor Registration

1804.7400 Scope.

This subpart prescribes policies and procedures for requiring contractor registration in the DoD Central Contractor Registration (CCR) database.

1804.7401 Definitions.

“Central Contractor Registration (CCR) database,” “Data Universal Numbering System (DUNS) number,” “Data Universal Numbering System+4 (DUNS+4) number,” “Commercial and Government Entity (CAGE) Code,” and “Registered in the CCR database” are defined in the clause at 1852.204-74, Central Contractor Registration.

1804.7402 Policy.

Prospective contractors must be registered in the CCR database, prior to any award of a contract, purchase order, basic agreement, basic ordering agreement, or blanket purchase agreement after March 31, 2001. This policy applies to all types of awards except the following:

- (a) Purchases made with a Government-wide commercial purchase card.
- (b) Awards made to foreign vendors for work performed outside of the United States.
- (c) Purchases under FAR 6.302-2, Unusual and Compelling Urgency.

1804.7403 Procedures.

(a)(1) The contracting officer must verify that the prospective awardee is registered in the CCR database using either the Cage Code, DUNS number or, if applicable, the DUNS+4 number, via the Internet at <http://www.ccr2000.com> or by calling toll free: 888-CCR-2423 (888-227-2423), commercial: 616-961-5757.

(2) Verification of registration is not required for orders or calls placed under contracts, basic agreements, basic ordering agreements, or blanket purchase agreements in which vendor registration was verified at the time of award of the contract or agreement.

(b) If the contracting officer determines that a prospective awardee is not registered in the CCR database after March 31, 2001, the contracting officer must--

(1) If delaying the acquisition would not be to the detriment of the Government, proceed to award after the contractor is registered;

(2) If delaying the acquisition would be to the detriment of the Government, proceed to award to the next otherwise successful registered offeror, with the written approval of the Procurement Officer; or

(3) If the offer results from an invitation for bids, determine the offer to be non-responsive and proceed to award to the next otherwise successful registered offeror.

(c) The contracting officer must protect against improper disclosure of contractor CCR information.

1804.7404 Solicitation provisions and contract clauses.

Except as provided in 1804.7402, the contracting officer must use the clause at 1852.204-74, Central Contractor Registration, in all solicitations and contracts, including those for commercial items.

(c) Plans shall be prepared in accordance with 1807.7103 and shall identify the individual acquisition documents involved for every acquisition listed. Acquisition documents that may require Headquarters approval will be held in abeyance until receipt of the notification required by 1807.7102-3. This is not to preclude the planning for or initiation of such documents up to that point where Headquarters approval may be required.

1807.7102-2 Submission of amendments to the Master Buy Plan.

(a) Acquisitions identified by installations after submission of their Master Buy Plan and meeting the criteria in 1807.7102-1(a) shall be submitted to Headquarters in accordance with 1807.7103 and identified as an amendment to the fiscal year Master Buy Plan submission.

(b) Master Buy Plan submissions should not be accomplished after the fact. Amendments shall be submitted sufficiently in advance of contract award date to allow Headquarters to select those acquisition documents that will be subject to Headquarters review and approval without creating an unacceptable delay in contract placement.

(c) When timely submittal is not possible, the installation shall provide with the amendment a narrative explaining the circumstances leading to the late submittal. A Master Buy Plan submission for a contract change order expected to meet the criteria in 1807.7101 shall be submitted to Headquarters immediately upon issuance of the change order.

1807.7102-3 Selection and notification procedures.

(a) The Headquarters Office of Procurement (Code HS) shall select acquisition documents from the Master Buy Plan and amendments to Master Buy Plans to receive Headquarters review and approval and shall designate source selection officials.

(b) When, subsequent to document selection or delegation, an acquisition is changed (for example, increase or decrease in dollar amount, change in requirement), canceled, superseded, deferred, or becomes no longer subject to the Master Buy Plan procedures in accordance with the criteria in 1807.7101, the installation shall immediately notify Code HS, giving the reasons. Code HS shall notify the installation's procurement office in writing of any further action that may be required.

(c) Acquisition documents not selected for Headquarters review will be subject to after-the-fact reviews by Headquarters during normal procurement management surveys or other special reviews. Acquisition delegations may subsequently be rescinded if a Headquarters review is deemed appropriate.

1807.7103 Format of Master Buy Plan.

In accordance with the requirements of 1807.7102-1 and 1807.7102-2, installations must prepare Master Buy Plans and amendments to Master Buy Plans in accordance with the Master Buy Plan Database (MBPD) instructions at <http://www/hq.nasa.gov/office/procurement/regs/Table1807.doc> and submit them in accordance with the MBPD User Manual Instructions listed at <http://ec.msfc.nasa.gov/hq/library/mbp.UserGuide.html>.

Subpart 1807.72--Acquisition Forecasting

1807.7200 Scope of subpart.

This subpart prescribes the acquisition forecasting procedure required to comply with the Business Opportunity Development Reform Act of 1988.

1807.7201 Definitions.

"**Class of contracts**" means a grouping of acquisitions, either by dollar value or by the nature of supplies and services to be acquired.

"**Contract opportunity**" means planned new contract awards exceeding \$25,000.

1807.7202 Policy.

As required by statute, it is NASA policy to (a) prepare an annual forecast and semiannual update of expected contract opportunities or classes of contract opportunities for each fiscal year; (b) include in the forecast contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, may be capable of performing; and (c) make available such forecasts to the public.

1807.7203 Responsibilities.

(a) NASA Procurement Officers shall post the data required by 1807.7204 directly to the NASA Acquisition Internet Service not later than October 1 for the annual forecast and April 15 for the semiannual update.

(b) Code HS will manage policy and monitor compliance with the NASA Acquisition Forecast process.

1807.7204 Forecast data.

(a) The annual forecast shall contain--

(1) Summary historical data (based on information provided by the Headquarters Office of Procurement (Codes HC and HS)) on the class of contract opportunities below the simplified acquisition threshold;

(2) Identification of all known contract opportunities in excess of the simplified acquisition threshold. Each such action should be identified as one of the three broad categories of acquisition -- Research and Development, Services, or Supplies and Equipment and shall include the following information:

(i) A brief description not to exceed ten typed lines;

(ii) Approximate dollar value within the following dollar ranges: \$100,000 to \$1,000,000; \$1,000,000 to \$5,000,000; and over \$5,000,000;

(iii) Anticipated time (by fiscal year quarter) for the issuance of the solicitation;

(iv) Identification if it is reserved for performance by small business concerns including those owned and controlled by socially and economically disadvantaged individuals;

(v) Identification as competitive or noncompetitive; and

(vi) Identification and telephone number of a center point of contact.

(b) The semiannual report shall be an update of the data provided by the annual forecast. This update should provide information on new requirements not previously reported and on changes in data related to actions previously identified.

1807.7205 Public availability.

PROCUREMENT NOTICE (PN) 97-66 REPLACEMENT PAGE
7:9

The annual forecast and semiannual update are available on the NASA Acquisition Internet Service (<http://www.hq.nasa.gov/office/procurement/>).

(b)(i) The Headquarters Chief Information Officer (Code AO) is the NASA central printing authority.

(ii) Requests for approval to contract for printing supplies or services shall be addressed to Code AO. Approval to contract for such supplies or services is restricted to those requirements meeting the following conditions:

(A) An individual order is under \$1,000;

(B) The order is not of a continuing or repetitive nature; and,

(C) The Public Printer certifies it cannot be provided more economically through the GPO.

1808.870 Contract clause.

The contracting officer shall insert the clause at 1852.208-81, Restrictions on Printing and Duplicating, in solicitations and contracts where there is a requirement for any printing, and/or any duplicating/copying in excess of that described in paragraph (c) of the clause.

Subpart 1808.11--Leasing of Motor Vehicles

1808.1100 Scope of subpart.

NASA procedures for leasing motor vehicles from GSA or commercial sources are contained in NPD 6000.1, Transportation Management.

(j) A source selection statement shall be prepared in accordance with 1815.308. For installation selections, the installation Chief Counsel or designee will prepare the source selection statement. For Headquarters selections, the Office of General Counsel or designee will prepare the statement.

Subpart 1815.4--Contract Pricing

1815.403 Obtaining cost or pricing data.

1815.403-1 Prohibition on obtaining cost or pricing data.

(b)(1) The adequate price competition exception is applicable to both fixed-price and cost-reimbursement type acquisitions. Contracting officers shall assume that all competitive acquisitions qualify for this exception.

(c)(4) Waivers of the requirement for submission of cost or pricing data shall be prepared in accordance with FAR 1.704. A copy of each waiver shall be sent to the Headquarters Office of Procurement (Code HK).

1815.403-170 Waivers of cost or pricing data.

(a) NASA has waived the requirement for the submission of cost or pricing data when contracting with the Canadian Commercial Corporation (CCC). This waiver applies to the CCC and its subcontractors. The CCC will provide assurance of the fairness and reasonableness of the proposed price. This assurance should be relied on; however, contracting officers shall ensure that the appropriate level of information other than cost or pricing data is submitted by subcontractors to support any required proposal analysis, including a technical analysis and a cost realism analysis. The CCC also will provide for follow-up audit activity to ensure that any excess profits are found and refunded to NASA.

(b) NASA has waived the requirement for the submission of cost or pricing data when contracting for Small Business Innovation Research (SBIR) program Phase II contracts. However, contracting officers shall ensure that the appropriate level of information other than cost or pricing data is submitted to determine price reasonableness and cost realism.

1815.403-3 Requiring information other than cost or pricing data.

(b) As indicated in 1815.403-1(b)(1), the adequate price competition exception applies to all competitive acquisitions. For other than firm-fixed price competitions, only the minimum information other than cost or pricing data necessary to ensure price reasonableness and assess cost realism should be requested. For firm-fixed price competitions, the contracting officer shall not request any cost information, except as required by FAR 22.1103, unless proposed prices appear unreasonable or unrealistically low given the offeror's proposed approach and there are concerns that the contractor may default.

1815.403-4 Requiring cost or pricing data.

(b)(2) If a certificate of current cost or pricing data is made applicable as of a date other than the date of price agreement, the agreed date should generally be within two weeks of the date of that agreement.

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1815.404 Proposal analysis.

1815.404-2 Information to support proposal analysis.

(a)(1)(A) A field pricing report consists of a technical report and an audit report by the cognizant contract audit activity. Contracting officers should request a technical report from the ACO only if NASA resources are not available.

(B) When the required participation of the ACO or auditor involves merely a verification of information, contracting officers should obtain this verification from the cognizant office by telephone rather than formal request of field pricing support.

(C) When the cost proposal is for a product of a follow-on nature, contracting officers shall ensure that the following items, at a minimum are considered: actuals incurred under the previous contract, learning experience, technical and production analysis, and subcontract proposal analysis. This information may be obtained through NASA resources or the cognizant DCMA ACO or DCAA.

(D) Requests for field pricing assistance may be made on NASA Form 1434, Letter of Request for Pricing-Audit-Technical Evaluation Services.

1815.404-4 Profit.

(b)(1)(i)(a) The NASA structured approach for determining profit or fee objectives, described in 1815.404-471 shall be used to determine profit or fee objectives in the negotiation of contracts greater than or equal to \$100,000 that use cost analysis and are:

(1) Awarded on the basis of other than full and open competition (see FAR 6.3);

(2) Awarded under NASA Research Announcements (NRAs) and Announcements of Opportunity (AO's); or

(3) Awarded under the Small Business Innovative Research (SBIR) or the Small Business Technology Transfer Research (STTR) programs.

(b) The rate calculated for the basic contract may only be used on actions under a negotiated contract when the conditions affecting profit or fee do not change.

(c) Although specific agreement on the applied weights or values for individual profit or fee factors shall not be attempted, the contracting officer may encourage the contractor to –

(1) Present the details of its proposed profit amounts in the structured approach format or similar structured approach; and

(2) Use the structured approach method in developing profit or fee objectives for negotiated subcontracts.

(ii) The use of the NASA structured approach for profit or fee is not required for:

(a) Architect-engineer contracts;

(b) Management contracts for operation and/or maintenance of Government facilities;

(c) Construction contracts;

(d) Contracts primarily requiring delivery of materials supplied by subcontractors;

(e) Termination settlements; and

(f) Contracts having unusual pricing situations when the procurement officer determines in writing that the structured approach is unsuitable.

(c)(2) Contracting officers shall document the profit or fee analysis in the contract file.

1815.404-470 NASA Form 634.

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1815.504 Award to successful offeror.

The reference to notice of award in FAR 15.504 on negotiated acquisitions is a generic one. It relates only to the formal establishment of a contractual document obligating both the Government and the offeror. The notice is effected by the transmittal of a fully approved and executed definitive contract document, such as the award portion of SF 33, SF 26, SF 1449, or SF 1447, or a letter contract when a definitized contract instrument is not available but the urgency of the requirement necessitates immediate performance. In this latter instance, the procedures in 1816.603 for approval and issuance of letter contracts shall be followed.

1815.506 Postaward debriefing of offerors.**1815.506-70 Debriefing of offerors - Major System acquisitions.**

(a) When an acquisition is conducted in accordance with the Major System acquisition procedures in Part 1834 and multiple offerors are selected, the debriefing will be limited in such a manner that it does not prematurely disclose innovative concepts, designs, and approaches of the successful offerors that would result in a transfusion of ideas.

(b) When Phase B awards are made for alternative system design concepts, the source selection statements shall not be released to competing offerors or the general public until the release of the source selection statement for Phase C/D without the approval of the Associate Administrator for Procurement (Code HS).

Subpart 1815.6--Unsolicited Proposals**1815.602 Policy.**

(1) An unsolicited proposal may result in the award of a contract, grant, cooperative agreement, or other agreement. If a grant or cooperative agreement is used, the NASA Grant and Cooperative Agreement Handbook (NPG 5800.1) applies.

(2) Renewal proposals, (i.e., those for the extension or augmentation of current contracts) are subject to the same FAR and NFS regulations, including the requirements of the Competition in Contracting Act, as are proposals for new contracts.

1815.604 Agency points of contact.

(a) Information titled "Guidance for the Preparation and Submission of Unsolicited Proposals" is available on the Internet at <http://ec.msfc.nasa.gov/hq/library/unSol-Prop.html>. A deviation is required for use of any modified or summarized version of the Internet information or for alternate means of general dissemination of unsolicited proposal information.

1815.606 Agency procedures.

(a) NASA will not accept for formal evaluation unsolicited proposals initially submitted to another agency or to the Jet Propulsion Laboratory (JPL) without the offeror's express consent.

(b)(i) NASA Headquarters and each NASA field installation shall designate a point of contact for receiving and coordinating the handling and evaluation of unsolicited proposals.

(ii) Each installation shall establish procedures for handling proposals initially received by other offices within the installation. Misdirected proposals shall be forwarded by the point of

contact to the proper installation. Points of contact are also responsible for providing guidance to potential offerors regarding the appropriate NASA officials to contact for general mission-related inquiries or other preproposal discussions.

(iii) Points of contact shall keep records of unsolicited proposals received and shall provide prompt status information to requesters. These records shall include, at a minimum, the number of unsolicited proposals received, funded, and rejected during the fiscal year; the identity of the offerors; and the office to which each was referred. The numbers shall be broken out by source (large business, small business, university, or nonprofit institution).

1815.606-70 Relationship of unsolicited proposals to NRAs.

An unsolicited proposal for a new effort or a renewal, identified by an evaluating office as being within the scope of an open NRA, shall be evaluated as a response to that NRA (see 1835.016-71), provided that the evaluating office can either:

- (a) State that the proposal is not at a competitive disadvantage, or
- (b) Give the offeror an opportunity to amend the unsolicited proposal to ensure compliance with the applicable NRA proposal preparation instructions. If these conditions cannot be met, the proposal must be evaluated separately.

1815.609 Limited use of data.

1815.609-70 Limited use of proposals.

Unsolicited proposals shall be evaluated outside the Government only to the extent authorized by, and in accordance with, the procedures prescribed in, 1815.207-70.

1815.670 Foreign proposals.

Unsolicited proposals from foreign sources are subject to NPD 1360.2, Initiation and Development of International Cooperation in Space and Aeronautics Programs.

Subpart 1815.70--Ombudsman

1815.7001 NASA Ombudsman Program.

NASA's implementation of an ombudsman program is in NPG 5101.33, Procurement Advocacy Programs.

1815.7002 Synopses of solicitations and contracts.

In all synopses announcing competitive acquisitions, the contracting officer shall indicate that the clause at 1852.215-84, Ombudsman, is applicable. This may be accomplished by referencing the clause number and identifying the installation Ombudsman.

1815.7003 Contract clause.

The contracting officer must insert a clause substantially the same as the one at 1852.215-84, Ombudsman, in all solicitations (including draft solicitations) and contracts. Use the clause with its Alternate I when a task or delivery order contract is contemplated.

PART 1816
TYPES OF CONTRACTS

TABLE OF CONTENTS

SUBPART	1816.1	SELECTING CONTRACT TYPES
1816.104		Factors in selecting contract types.
1816.104-70		Contract type of performance-based contracting (PBC).
SUBPART	1816.2	FIXED-PRICE CONTRACTS
1816.202		Firm-fixed-price contracts.
1816.202-70		NASA contract clause.
1816.203		Fixed-price contracts with economic price adjustment.
1816.203-4		Contract clauses.
SUBPART	1816.3	COST-REIMBURSEMENT CONTRACTS
1816.303-70		Cost-sharing contracts.
1816.306		Cost-plus-fixed-fee contracts.
1816.307		Contract clauses.
1816.307-70		NASA contract clauses.
SUBPART	1816.4	INCENTIVE CONTRACTS
1816.402		Application of pre-determined, formula-type incentives.
1816.402-2		Performance incentives.
1816.402-270		NASA technical performance incentives.
1816.404		Fixed-price contracts with award fees.
1816.405		Cost-reimbursement incentive contracts.
1816.405-2		Cost-plus-award-fee (CPAF) contracts.
1816.405-270		CPAF contracts.
1816.405-271		Base fee.
1816.405-272		Award fee evaluation periods.
1816.405-273		Award fee evaluations.
1816.405-274		Award fee evaluation factors.
1816.405-275		Award fee evaluation scoring.
1816.405-276		Award fee payments and limitations.
1816.406		Contract clauses.
1816.406-70		NASA contract clauses.
SUBPART	1816.5	INDEFINITE-DELIVERY CONTRACTS
1816.504		Indefinite quantity contracts.
1816.505		Ordering.
1816.505-70		Task Ordering.
1816.506-70		NASA contract clause.

SUBPART	1816.6	TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS
1816.603		Letter contracts.
1816.603-370		Approvals.

PART 1816 TYPES OF CONTRACTS

Subpart 1816.1 -- Selecting Contract Types

1816.104 Factors in selecting contract types.

1816.104-70 Contract type for performance-based contracting (PBC).

(a) PBC is defined in FAR 2.101 and discussed in FAR 37.6. Although FAR Part 37 primarily addresses services contracts, PBC is not limited to these contracts. PBC is the preferred way of contracting for all supplies and services at NASA. Generally, when contract performance risk under a PBC specification can be fairly shifted to the contractor to allow for the operation of objective incentives, a contract type with objectively measurable incentives (e.g., FFP, FPIF, or CPIF) is appropriate. However, when contractor performance (e.g., cost control, schedule, or quality/technical) is best evaluated subjectively using quantitative measures, a CPAF contract may be used.

(b) A level-of-effort contract is not PBC.

Subpart 1816.2--Fixed-Price Contracts

1816.202 Firm-fixed-price contracts.

1816.202-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.216-78, Firm-Fixed-Price, in firm-fixed-price solicitations and contracts. Insert the appropriate amount in the resulting contract.

1816.203 Fixed-price contracts with economic price adjustment.

1816.203-4 Contract clauses.

(a) In addition to the approval requirements in the prescriptions at FAR 52.216-2 through 52.216-4, the contracting officer shall coordinate with the installation's Deputy Chief Financial Officer (Finance) before exceeding the ten-percent limit in paragraph (c)(1) of the clauses at FAR 52.216-2 and 52.216-3 and paragraph (c)(4) of the clause at 52.216-4.

(d)(2) Contracting officers shall contact the Office of Procurement, Code HK, for specific guidance on preparing clauses using cost indexes. Such clauses require advance approval by the Associate Administrator for Procurement. Requests for approval shall be submitted to the Headquarters Office of Procurement (Code HS).

Subpart 1816.3--Cost-Reimbursement Contracts

16:

(1) Normally, the contractor should be given a score of 0 for cost control when there is a significant overrun within its control. However, the contractor may receive higher scores for cost control if the overrun is insignificant. Scores should decrease sharply as the size of the overrun increases. In any evaluation of contractor overrun performance, the Government shall consider the reasons for the overrun and assess the extent and effectiveness of the contractor's efforts to control or mitigate the overrun.

(2) The contractor should normally be rewarded for an underrun within its control, up to the maximum score allocated for cost control, provided the average numerical rating for all other award fee evaluation factors is 81 or greater (see 1816.405-275). An underrun shall be rewarded as if the contractor has met the estimated cost of the contract (see 1816.405-274(d)(3)) when the average numerical rating for all other factors is less than 81 but greater than 60.

(3) The contractor should be rewarded for meeting the estimated cost of the contract, but not to the maximum score allocated for cost control, to the degree that the contractor has prudently managed costs while meeting contract requirements. No award shall be given in this circumstance unless the average numerical rating for all other award fee evaluation factors is 61 or greater.

(f) When an AF arrangement is used in conjunction with another contract type, the award fee's cost control factor will only apply to a subjective assessment of the contractor's efforts to control costs and not the actual cost outcome incentivized under the basic contract type (e.g. CPIF, FPIF).

(g)(1) The contractor's performance against the subcontracting plan incorporated in the contract shall be evaluated. Emphasis may be placed on the contractor's accomplishment of its goals for subcontracting with small business, HUBZone small business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business concerns.

(2) The contractor's performance against the contract target for participation as subcontractors by small disadvantaged business concerns in the NAICS Major Groups designated by the Department of Commerce (see FAR 19.201(c)) shall also be evaluated if the clause at FAR 52.219-26, Small Disadvantaged Business Participation - Incentive Subcontracting, is not included in the contract (see FAR 19.1204(c)).

(3) The contractor's achievements in subcontracting high technology efforts as well as the contractor's performance under the Mentor-Protégé Program, if applicable, may also be evaluated.

(4) The evaluation weight given to the contractor's performance against the considerations in paragraphs (g)(1) through (g)(3) of this section should be significant (up to 15 percent of available award fee). The weight should motivate the contractor to focus management attention to subcontracting with small, HUBZone, women-owned, veteran-owned, and service-disabled veteran-owned small business concerns, and with small disadvantaged business concerns in designated NAICS Major Groups to the maximum extent practicable, consistent with efficient contract performance.

(h) Only the award fee performance evaluation factors set forth in the performance evaluation plan shall be used to determine award fee scores.

(i) The Government may unilaterally modify the applicable award fee performance evaluation factors and performance evaluation areas prior to the start of an evaluation period. The

contracting officer shall notify the contractor in writing of any such changes 30 days prior to the start of the relevant evaluation period.

1816.405-275 Award fee evaluation scoring.

(a) A scoring system of 0-100 shall be used for all award fee ratings. Award fee earned is determined by applying the numerical score to the award fee pool. For example, a score of 85 yields an award fee of 85 percent of the award fee pool. No award fee shall be paid unless the total score is 61 or greater.

(b) The following standard adjectival ratings and the associated numerical scores shall be used on all award fee contracts.

(1) **Excellent** (100-91): Of exceptional merit; exemplary performance in a timely, efficient, and economical manner; very minor (if any) deficiencies with no adverse effect on overall performance.

(2) **Very good** (90-81): Very effective performance, fully responsive to contract requirements; contract requirements accomplished in a timely, efficient, and economical manner for the most part; only minor deficiencies.

(3) **Good** (80-71): Effective performance; fully responsive to contract requirements; reportable deficiencies, but with little identifiable effect on overall performance.

(4) **Satisfactory** (70-61): Meets or slightly exceeds minimum acceptable standards; adequate results; reportable deficiencies with identifiable, but not substantial, effects on overall performance.

(5) **Poor/Unsatisfactory** (less than 61): Does not meet minimum acceptable standards in one or more areas; remedial action required in one or more areas; deficiencies in one or more areas which adversely affect overall performance.

(c) As a benchmark for evaluation, in order to be rated "Excellent," the contractor must be under cost, on or ahead of schedule, and have provided excellent technical performance.

(d) A scoring system appropriate for the circumstances of the individual contract requirement should be developed. Weighted scoring is recommended. In this system, each evaluation factor (e.g., technical, schedule, cost control) is assigned a specific percentage weighting with the cumulative weightings of all factors totaling 100. During the award fee evaluation, each factor is scored from 0-100 according to the ratings defined in 1816.405-275(b). The numerical score for each factor is then multiplied by the weighting for that factor to determine the weighted score. For example, if the technical factor has a weighting of 60 percent and the numerical score for that factor is 80, the weighted technical score is 48 (80 x 60 percent). The weighted scores for each evaluation factor are then added to determine the total award fee score.

1816.405-276 Award fee payments and limitations.

(a) *Interim Award Fee Payments.* The amount of an interim award fee payment (see 1816.405-273(b)) is limited to the lesser of the interim evaluation score or 80 percent of the fee allocated to that interim period less any provisional payments (see paragraph (b) of this subsection) made during the period.

(b) *Provisional Award Fee Payments.* Provisional award fee payments are payments made within evaluation periods prior to an interim or final evaluation for that period. Provisional payments may be included in the contract and should be negotiated on a case-by-case basis. For a service contract, the total amount of award fee available in an evaluation period that may be provisionally paid is the lesser of a percentage stipulated in the contract (but not exceeding 80

16:

percent) or the prior period's evaluation score. For an end item contract, the total amount of provisional payments in a period is limited to a percentage not to exceed 80 percent of the prior interim period's evaluation score.

(c) *Fee Payment.* The Fee Determination Official's rating for both interim and final evaluations will be provided to the contractor within 45 calendar days of the end of the period being evaluated. Any fee, interim or final, due the contractor will be paid no later than 60 calendar days after the end of the period being evaluated.

1816.406 Contract clauses.

1816.406-70 NASA contract clauses.

(a) As authorized by FAR 16.406(e), the contracting officer shall insert the clause at 1852.216-76, Award Fee for Service Contracts, in solicitations and contracts when an award-fee contract is contemplated and the contract deliverable is the performance of a service.

(b) As authorized by FAR 16.406(e), the contracting officer shall insert the clause at 1852.216-77, Award Fee for End Item Contracts, in solicitations and contracts when an award fee contract is contemplated and the contract deliverables are hardware or other end items for which total contractor performance cannot be measured until the end of the contract. When the clause is used in a fixed-price award-fee contract, it shall be modified by deleting references to base fee in paragraphs (a), and by deleting paragraph (c)(1), the last sentence of (c)(4), and the first sentence of (c)(5).

(c) The contracting officer may insert a clause substantially as stated at 1852.216-83, Fixed Price Incentive, in fixed-price-incentive solicitations and contracts utilizing firm or successive targets. For items subject to incentive price revision, identify the target cost, target profit, target price, and ceiling price for each item.

(d) The contracting officer shall insert the clause at 1852.216-84, Estimated Cost and Incentive Fee, in cost-plus-incentive-fee solicitations and contracts.

(e) The contracting officer may insert the clause at 1852.216-85, Estimated Cost and Award Fee, in award-fee solicitations and contracts. When the contract includes performance incentives, use Alternate I. When the clause is used in a fixed-price award fee contract, it shall be modified to delete references to base fee and to reflect the contract type.

(f) As provided at 1816.402-270, the contracting officer shall insert a clause substantially as stated at 1852.216-88, Performance Incentive, when the primary deliverable(s) is (are) hardware and total estimated cost and fee is greater than \$25 million. A clause substantially as stated at 1852.216-88 may be included in lower dollar value hardware contracts with the approval of the procurement officer.

Subpart 1816.5--Indefinite-Delivery Contracts

1816.504 Indefinite quantity contracts.

(a)(4)(ii) ID/IQ service contract values and task order values shall be expressed only in dollars.

(a)(4)(v) See 1815.7003.

1816.505 Ordering.

(a)(2) Task and delivery orders shall be issued by the contracting officer.

(b)(5) The Agency and installation ombudsmen designated in accordance with 1815.7001 shall review complaints from contractors on task order contracts and delivery order contracts.

1816.505-70 Task ordering.

(a) The contracting officer shall, to the maximum extent possible, state task order requirements in terms of functions and the related performance and quality standards such that the standards may be objectively measured.

(b) To the maximum extent possible, contracting officers shall solicit contractor task plans to use as the basis for finalizing task order requirements and enable evaluation and pricing of the contractor's proposed work on a performance based approach as described in 1816.104-70(a).

(c) Task order contract type shall be individually determined, based on the nature of each task order's requirements.

(1) Task orders may be grouped by contract type for administrative convenience (e.g., all CPIF orders, all FFP orders, etc.) for contractor progress and cost reporting.

(2) Under multiple awards, solicitations for individual task plans shall request the same pricing structure from all offerors.

(d) Any undefinitized task order issued under paragraph (f) of the clause at 1852.216-80, Task Ordering Procedure, shall be treated and reported as an undefinitized contract action in accordance with 1843.70.

1816.506-70 NASA contract clause.

Insert the clause at 1852.216-80, Task Ordering Procedure, in solicitations and contracts when an indefinite-delivery, task order contract is contemplated. The clause is applicable to both fixed-price and cost-reimbursement type contracts. If the contract does not require 533M reporting (see NPG 9501.2, NASA Contractor Financial Management Reporting System), use the clause with its Alternate I.

Subpart 1816.6--Time-and-Materials, Labor-Hour, and Letter Contracts

1816.603 Letter contracts.

1816.603-370 Approvals.

(a) All requests for authority to issue a letter contract shall include the following:

- (1) Proposed contractor's name and address.
- (2) Location where contract is to be performed.
- (3) Contract number, including modification number, if applicable.
- (4) Brief description of the work or services to be performed.
- (5) Performance period or delivery schedule.
- (6) Amount of letter contract.
- (7) Performance period of letter contract.
- (8) Estimated total amount of definitive contract.
- (9) Type of definitive contract to be executed.

(10) A statement that the definitive contract will contain all required clauses or identification of specific clause deviations that have been approved.

16:

(11) A statement as to the necessity and advantage to the Government of the proposed letter contract.

(12) The definitization schedule described in FAR 16.603-2(c) expected to be negotiated with the contractor.

(b) Requests for authority to issue letter contracts having an estimated definitive contract amount equal to or greater than the Master Buy Plan submission thresholds of 1807.7101 (or modifications thereto) shall be signed by the procurement officer and submitted to the Associate Administrator for Procurement (Code HS) for approval.

(c) Authority to approve the issuance of letter contracts below the Master Buy Plan submission thresholds specified in 1807.7101 is delegated to the procurement officer.

(d) Any modification of an undefinitized letter contract approved by a procurement officer in accordance with paragraph (c) of this section that increases the estimated definitized contract amount to or above the Master Buy Plan submission thresholds must have the prior approval of the Associate Administrator for Procurement (Code HS).

(f)(2) Use of the provision (or formula) for determining the price of a fixed price option requires advance approval by the Associate Administrator for Procurement (Code HS).

(f)(3)(ii) Use of a formula to determine the fee of an option in a cost-type contract requires advance approval of the Associate Administrator for Procurement (Code HS). The formula shall preclude the contractor from increasing costs for the purpose of earning additional fee.

1817.208 Solicitation provisions and contract clauses.

(c)(3) The contracting officer shall insert a provision substantially the same as FAR 52.217-5 in cost reimbursement contracts when the other conditions of FAR 17.208(c) are met.

Subpart 1817.4--Leader Company Contracting

1817.401 General.

It is NASA policy not to use the leader company contracting technique.

Subpart 1817.5--Interagency Acquisitions Under the Economy Act

1817.503 Determinations and findings requirements.

(a) See 1817.72 for additional information on interagency transaction requirements.

(a)(2) Current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.201 may be used to ascertain whether the acquisition can be accomplished more economically from commercial sources.

(c) The Associate Administrator for Procurement as the agency senior procurement executive will approve all D&F's for a servicing agency not covered by the Federal Acquisition Regulations. This approval may not be delegated below the senior procurement executive level.

1817.504 Ordering procedures.

(b)(4) All payment provisions shall require the servicing agency or department to submit a final voucher, invoice, or other appropriate payment document within six months after the completion date of the order. A different period may be specified by mutual agreement if six months is not sufficient.

Subpart 1817.70--Acquisitions with Military Departments

1817.7000 Scope of subpart.

This subpart contains policies and procedures, developed jointly by NASA and DOD, for acquisition of supplies or services by NASA from or through the Military Departments.

1817.7001 Authorization and policy.

(a) NASA is authorized by the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) to use the acquisition services, personnel, equipment, and facilities of the Military Departments, with their consent and with or without reimbursement, and, on a similar basis, to cooperate with the Military Departments in the use of acquisition services, equipment, and facilities.

(b) The Military Departments have agreed to cooperate fully with NASA in making their acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

(c) The Military Departments have agreed not to claim reimbursement for administrative costs incident to acquisitions for NASA, except as may be otherwise agreed before the services are performed.

(d) When procuring supplies or services for NASA or performing field service functions in support of NASA contracts, the Military Departments have agreed to use their own methods, except when otherwise required by the terms of the agreement involved.

(e) The Military Departments normally will use their own funds when procuring supplies or services or performing services for NASA, and will not cite NASA funds on any Defense obligation or payment document.

1817.7002 NASA-Defense Purchase Request and acceptance.

(a) The NASA-Defense Purchase Request (NASA Form 523) shall be used by NASA contracting offices for requesting acquisition of supplies or services from all activities of the Military Departments. Individual NASA-Defense Purchase Requests shall be prepared in accordance with the instructions on the reverse of NASA Form 523 and shall be numbered in accordance with Subpart 1804.71. The form shall not be used for requesting --

(1) Block transfers of excess property between NASA and the Military Departments;

(2) Performance by the Military Departments of field service functions related to NASA contracts; or

(3) Items that the Military Departments normally purchase and stock for military use or in-house services, except when a DOD activity is willing to accept the form for these purposes. Supplies and services of this nature may be requisitioned using appropriate DOD forms when they are provided by and are acceptable to or preferred by the Military Department supplying activity or as otherwise mutually agreed upon by the parties.

(b) Include a provision in accordance with 1817.504(b)(4).

(c) To obtain materials from the Air Force Missile Procurement Fund, the contracting officer shall follow the procedures of 1808.002-72.

1817.7002-1 Acceptance by Military Department.

(a) Except as provided in paragraph (c) of this section, the Military Department concerned will, within 30 days after receipt of a NASA-Defense Purchase Request, forward to the initiator of the request an Acceptance of MIPR, DD Form 448-2. Each DD Form 448-2 will show the action being taken to fill the requirement and the name and complete address of the DOD contracting activity.

(b) To the extent feasible, all documents (including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings) will reference the NASA-Defense Purchase Request number and the item number.

(c) Acceptance by the Military Department is not required for NASA-Defense Purchase Requests covering deliveries of common-use standard-stock items that the supplying agency has on hand or on order for prompt delivery at published prices.

1817.7002-2 Changes in estimated total prices.

When a Military Department determines that the estimated total price (Block 7, NASA Form 523) of the items to be acquired for NASA is not sufficient to cover the required reimbursement or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, the cognizant NASA contracting office shall forward to the DOD contracting activity an amendment to the NASA Defense Purchase Request.

1817.7002-3 Payments.

Except when agreements provide that reimbursement is not required, payments to the Military Departments shall be made by NASA office designated in block 9 of the NASA-Defense Purchase Request upon receipt of Standard Form 1080. Billings will be supported in the same manner as billings between Military Departments.

1817.7002-4 Contract clause.

The contracting officer shall insert the clause at 1852.217-70, Property Administration and Reporting, in any NASA-Defense Purchase Request when property will be involved.

Subpart 1817.71--Exchange or Sale of Personal Property

1817.7101 Policy.

(a) Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)), authorizes the exchange or sale of Government personal property and the application of the exchange allowance or proceeds from sale to the acquisition of similar property for replacement purposes. The transaction must be evidenced in writing.

(b) NASA installations and contractors are authorized to conduct exchange/sale transactions as long as the requirements and restrictions of NPG 4300.1 and the Federal Property Management Regulations, Subchapter H, part 101-46, are followed. In conducting such exchanges/sales, NASA contractors must obtain the contracting officer's prior written approval and must report the transactions to the cognizant NASA installation Property Disposal Officer (PDO).

Subpart 1817.72 Interagency Transactions

1817.7201 Policy.

(a) Although the Space Act provides interagency transaction authority nearly equivalent to the Economy Act, NASA has elected to conform its implementation of the Space Act to the requirements of the Economy Act. Therefore, unless exempt from the Economy Act for reasons other than the general authority of the Space Act, interagency acquisitions shall be supported by a Determination and Findings equivalent to that required for Economy Act transactions (see FAR 17.503 and 1817.503). This requirement applies to all purchases of goods or services under contracts entered into or administered by the Military Departments or other agencies. The Space Act may be cited as authority for a transaction where appropriate, but that does not provide relief from this D&F requirement.

(b) The determination described in paragraph (a) of this section is not required for contracts awarded under the Space Act to Government agencies pursuant to a Broad Agency Announcement when a review of the acquisition records would make it obvious that the award is not being used as a method of circumventing regulatory or statutory requirements, particularly FAR Part 6, Competition Requirements (e.g., when a significant number and value of awards made under the BAA are made to entities other than Government agencies).

Subpart 1817.73 -- Phased Acquisition

1817.7300 Definitions.

(a) **Down-selection.** In a phased acquisition, the process of selecting contractors for later phases from among the preceding phase contractors.

(b) **Phased Acquisition.** An incremental acquisition implementation comprised of several distinct phases where the realization of program/project objectives requires a planned, sequential acquisition of each phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(c) **Progressive Competition.** A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

1817.7301 Down-selections in phased acquisitions.

1817.7301-1 Pre-solicitation planning.

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the initial phase solicitation will also lead to subsequent phase award(s), the decision to use a down-selection strategy must be made prior to release of the initial solicitation. Accordingly, all phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or ASM minutes.

(b) If there is no direct link between successful performance in the preceding phase and successful performance in a subsequent phase, down-selection is inappropriate. In this case, the phases should be contracted for separately without a down-selection.

(c) With one exception, both the initial and subsequent phase(s) of an acquisition down-selection process are considered to be full and open competition if the procedures in 1817.7301-4 and 1817.7301-5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205 and 1804.570-2.

1817.7301-2 Evaluation factors.

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that a preceding phase

PROCUREMENT NOTICE (PN) 97-66 REPLACEMENT PAGE
17:2

contractor will be the subsequent phase contractor, the evaluation factors for initial phase award must specifically include evaluation of the offerors' abilities to perform all phases.

PART 1819
SMALL BUSINESS PROGRAMS

TABLE OF CONTENTS

1819.001		Definitions.
SUBPART 1819.201	1819.2	POLICIES General policy.
SUBPART 1819.302	1819.3	DETERMINATION OF SMALL BUSINESS STATUS FOR SMALL BUSINESS PROGRAMS Protesting a small business representation.
SUBPART 1819.502 1819.502-70 1819.502-3 1819.502-370 1819.505 1819.506	1819.5	SET-ASIDES FOR SMALL BUSINESS Setting aside acquisitions. Non-initiation of set-asides. Partial set-asides. NASA reporting requirements. Rejecting Small Business Administration recommendations. Withdrawing or modifying small business set-asides.
SUBPART 1819.602 1819.602-1 1819.602-3 1819.602-370	1819.6	CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY Procedures. Referral. Resolving differences between the agency and the Small Business Administration. NASA procedures.
SUBPART 1819.705-2 1819.705-4 1819.705-470 1819.708 1819.708-70	1819.7	THE SMALL BUSINESS SUBCONTRACTING PROGRAM Determining the need for a subcontracting plan. Reviewing the subcontracting plan. Acquisition-specific subcontracting goals. Contract clauses. NASA solicitation provision and contract clause.
SUBPART 1819.804 1819.804-1	1819.8	CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM) Evaluation, offering, and acceptance. Agency evaluation.
SUBPART	1819.10	SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

1819.1005		Applicability.
SUBPART	1819.70	NASA 8 PERCENT GOAL
1819.7000		General.
1819.7001		Definitions.
1819.7002		Contracting officer responsibility.
1819.7003		Contract clause.
SUBPART	1819.71	NASA RURAL AREA SMALL BUSINESS PLAN
1819.7101		Definition.
1819.7102		General.
1819.7103		Solicitation provision and contract clause.
SUBPART	1819.72	NASA MENTOR-PROTÉGÉ PROGRAM
1819.7201		Scope of subpart.
1819.7202		Definitions.
1819.7203		Non-affiliation.
1819.7204		Transportability of features from the Department of Defense (DOD) Mentor-Protégé program to NASA contractors.
1819.7205		General policy.
1819.7206		Incentives for prime contractor participation.
1819.7207		Measurement of Program success.
1819.7208		Mentor firms.
1819.7209		Protégé firms.
1819.7210		Selection of protégé firms.
1819.7211		Application process for mentor firms to participate in the Program.
1819.7212		OSDBU review and approval process of agreement.
1819.7213		Agreement contents.
1819.7214		Developmental assistance.
1819.7215		Obligation.
1819.7216		Internal controls.
1819.7217		Reports.
1819.7218		Program review.
1819.7219		Solicitation provision and contract clauses.

PART 1819
SMALL BUSINESS PROGRAMS

1819.001 Definitions.

“High-Tech” as used in this part means research and/or development efforts that are within or advance the state-of-the-art in a technology discipline and are performed primarily by professional engineers, scientists, and highly skilled and trained technicians or specialists.

Subpart 1819.2 --Policies

1819.201 General policy.

(a)(i) NASA is committed to providing to small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is particularly emphasized in high-technology areas where they have not traditionally dominated.

(ii) NASA annually negotiates Agency small, service-disabled veteran-owned small business, HUBZone, small disadvantaged, and women-owned small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, NASA has the following statutory goals based on the total value of prime and subcontract awards:

(A) Under Public Laws 101-144, 101-507, and 102-389, an annual goal of at least 8 percent for prime and subcontract awards to small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small businesses (WOSBs) (see 1819.7000); and

(B) Under 10 U.S.C. 2323, an annual goal of 5 percent for prime and subcontract awards to SDBs, HBCUs, and WOSBs.

(c) The Associate Administrator for Small and Disadvantaged Business Utilization (Code K) is the Agency official responsible for carrying out the duties in FAR 19.201(c).

(d)(i) The center director shall designate a qualified individual in the contracting office as a small business specialist to provide a central point of contact to which small business concerns may direct inquiries concerning small business matters and participation in NASA acquisitions. The small business specialist shall also perform other functions specifically set forth in this section 1819.201 or that the procurement officer may prescribe, with the concurrence of the Associate Administrator for Small and Disadvantaged Business Utilization, for implementing the Small Business Program. When the center director considers that the volume of acquisitions or the functions relating to acquisitions at the center do not warrant a full-time small business specialist, these duties may be assigned to procurement personnel on a part-time basis.

(ii) Small business specialists appointed under paragraph (d)(i) of this section shall perform the following duties, as the procurement officer determines appropriate to the installation:

(A) Maintain a program designed to locate capable small business sources, including those located in labor surplus areas, for current and future acquisitions.

(B) Coordinate inquiries and requests for advice from small business concerns on acquisition matters.

(C) Before issuance of solicitations or contract modifications for additional supplies or services, determine that small business concerns will receive adequate consideration, including making recommendations for initiation of set-asides (see FAR 19.5 and 19.8) and for taking action in accordance with FAR 19.506(b) and 1819.502-70. Participate and provide input early in the acquisition planning phase of proposed acquisitions, including acquisition strategy meetings.

(D) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, work with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for current or future acquisitions will be available.

(E) Review acquisitions for possible breakout of items suitable for acquisition from small business concerns.

(F) Advise small business concerns regarding financial assistance available under laws and regulations, assist such concerns in applying for such assistance, and ensure that small business concerns' requests for financial assistance are not treated as a handicap in securing the award of contracts.

(G) Participate in responsibility determinations (see FAR 9.103) when small business concerns are involved.

(H) Participate in the evaluation of prime contractors' small business subcontracting programs (see FAR 19.705-4).

(I) Review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the Small Business Program.

(J) Ensure that participation of small business concerns is accurately reported.

(K) Make available to SBA copies of solicitations when requested.

(L) Act as liaison between contracting officers and SBA area offices and representatives in connection with set-asides, certificates of competency, and any other matters in which the Small Business Program may be involved.

(M) In cooperation with contracting officers and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information regarding small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(N) When a small business concern's offer has been rejected for nonresponsiveness or nonresponsibility, assist that concern, upon its request, in understanding such requirements for future awards.

(O) Advise center personnel, as necessary, on new Governmentwide and Agency-approved small business programs and initiatives.

(f)(1) The NASA Ombudsman, the Director of the Contract Management Division (Code HK), is the designated official for determining whether the use of the SDB mechanism in FAR Subpart 19.11 has resulted in an undue burden on non-SDB firms in the Department of Commerce designated NAICS Major Groups, or is otherwise inappropriate.

Subpart 1819.3--Determination of Small Business Status for Small Business Programs

1819.302 Protesting a small business representation.

(d)(1) The contracting officer shall not make awards of small business set-aside acquisitions before the expiration of the period for receipt of a size standard protest.

Subpart 1819.5--Set-Asides for Small Business

1819.502 Setting aside acquisitions.

1819.502-70 Non-initiation of set-asides.

(a) All cases involving the non-initiation of a set-aside, whether resulting from a joint decision of the small business specialist and the contracting officer or a decision by the contracting officer alone, require referral to the SBA representative (if one is assigned and available) for review.

(b) If the small business specialist recommends that an individual acquisition or a class of acquisitions, or a portion thereof, be set aside, the contracting officer shall promptly either concur in or disapprove the recommendation, stating in writing the reasons for disapproval.

(c) When an SBA representative is assigned and available and the contracting officer disapproves the small business specialist's recommendation, the contracting officer shall promptly refer the case to the SBA representative for review. The small business specialist shall take no further appeal action. The SBA representative must either concur with the decision or appeal the case to the procurement officer under FAR 19.505. If the procurement officer approves the contracting officer's decision and the SBA appeals under FAR 19.505(c), the procurement officer shall forward the required written justification, including a history of discussions between the center and the SBA and rationale for the decision, to the Headquarters Office of Procurement (HS).

(d) When an SBA representative is not assigned or available and the contracting officer disapproves the small business specialist's recommendation, the small business specialist may appeal in writing to the procurement officer. The procurement officer's decision shall be final. The contracting officer shall place a memorandum of the procurement officer's decision in the contract file. If the procurement officer's decision approves the contracting officer's action, the small business specialist shall forward complete documentation of the case to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

(e) The contracting officer shall prepare, sign, and retain in the contract file a memorandum of nonconcurrence in a recommended set-aside action.

1819.502-3 Partial set-asides.

1819.502-370 NASA Reporting Requirements.

The contracting officer shall separately report, in accordance with Subpart 1804.6, awards of the non-set-aside portions of small business set-aside acquisitions.

1819.505 Rejecting Small Business Administration recommendations.

See 1819.502-70.

1819.506 Withdrawing or modifying small business set-asides.

(b) If an SBA representative is not assigned or available, and the small business specialist disagrees with the contracting officer's written decision of withdrawal or modification of a set-aside determination, the small business specialist may appeal to the procurement officer in accordance with the procedures in 1819.502-70(d).

Subpart 1819.6--Certificates of Competency and Determinations of Responsibility

1819.602 Procedures.

1819.602-1 Referral.

(a) On proposed awards exceeding the simplified acquisition threshold, the contracting officer should consider requesting a preaward survey (see FAR 9.106) before determining that a responsive small business firm is not responsible. The scope of the preaward survey request should be limited to those elements of responsibility that are questioned.

(2) The contracting officer shall forward a copy of the referral to SBA through the procurement officer to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

1819.602-3 Resolving differences between the agency and the Small Business Administration.

1819.602-370 NASA Procedures.

(a) When agreement cannot be reached between the contracting officer and the SBA Area Office, the contracting officer shall forward to the Headquarters Office of Procurement (Code HS) on an expedited basis, a complete case file with a request that the case be considered for appeal to SBA Headquarters. The contracting officer shall include the data already furnished to SBA, SBA's rationale for proposing to issue a COC, and the contracting officer's comments. The contracting officer shall suspend acquisition action until informed by Code HS of the final decision in the case.

(b) If the Office of Procurement concludes that the referral to SBA should be withdrawn and a contract awarded without benefit of a COC, Code HS shall inform the contracting officer.

(c) If the Office of Procurement agrees with the contracting officer's recommended appeal action, the Associate Administrator for Procurement shall forward the appeal through the Office of Small and Disadvantaged Business Utilization (Code K) to SBA Headquarters.

Subpart 1819.7--The Small Business Subcontracting Program

1819.705-2 Determining the need for a subcontracting plan.

(d) Solicitations for competitive negotiated acquisitions shall require proposed subcontracting plans with initial proposals (see 1819.708(b)(1)). For sole source negotiated acquisitions, the contractor shall be required to submit a proposed subcontracting plan with the proposal.

1819.705-4 Reviewing the subcontracting plan.

1819.705-470 Acquisition-specific subcontracting goals.

Section 1819.201 addresses Agencywide goals at the combined prime and subcontract levels. Appropriate subcontracting goals for an individual acquisition, however, are to be independently determined on the basis of the specific circumstances of the acquisition, consistent with FAR 19.705-4 and 1819.7002(b), and not on the basis of an Agencywide or center goal. Acquisition-specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with efficient performance. The methods outlined in NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, may also be useful in establishing reasonable subcontracting goals for small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, and women-owned small business concerns.

1819.708 Contract clauses.

(b)(1) The contracting officer shall use the clause at FAR 52.219-9 with its Alternate II when contracting by negotiation.

1819.708-70 NASA solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1852.219-73, Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.219-75, Small Business Subcontracting Reporting, in solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial plan.

**Subpart 1819.8--Contracting with the Small Business Administration
(The 8(a) Program)**

1819.804 Evaluation, offering, and acceptance.

1819.804-1 Agency evaluation.

The small business specialist shall review and evaluate all acquisition requirements to determine their suitability for offering to SBA for 8(a) acceptance and make a recommendation to the contracting officer concerning award to SBA.

Subpart 1819.10--Small Business Competitiveness Demonstration Program

1819.1005 Applicability.

(b) The targeted industry categories for NASA and their North American Industry Classification System (NAICS) codes are:

NAICS Code	Industry Category
334111	Electronic Computer Manufacturing
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing
334613	Magnetic and Optical Recording Media Manufacturing
334119	Other Computer Peripheral Equipment Manufacturing
33422	Radio and Television Broadcasting and Wireless Communication Equipment Manufacturing
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing
54171	Research and Development in the Physical Engineering and Life Sciences
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instrument Manufacturing
333314	Optical Instrument and Lens Manufacturing
541511	Custom Computer Programming Services

541512	Computer Systems Design Services
51421	Data Processing Services
541519	Other Computer Related Services

Subpart 1819.70--NASA 8 Percent Goal

1819.7000 General.

Public Laws 101-144, 101-507, and 102-389 require the NASA Administrator to ensure, to the fullest extent possible, that at least 8 percent of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns.

1819.7001 Definitions.

(a) “**Small Disadvantaged Business (SDB) concern**” and “**Women-Owned Small Business (WOSB) concern**” are defined in FAR 19.001.

(b) “**Historically Black College or University (HBCU)**” and “**Minority Institution (MI)**” are defined in FAR 26.301.

1819.7002 Contracting officer responsibility.

(a) Contracting officers must seek out as potential sources entities identified in 1819.7001 and give full consideration to these entities to satisfy NASA requirements. The participation of NASA prime contractors is also essential to meeting the Agency’s 8 percent goal.

(b) NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, contains guidance on developing realistic goals. It is applicable to acquisitions expected to exceed \$50 million, including options. The methodology may be used for lesser value acquisitions.

1819.7003 Contract clause.

The contracting officer shall insert the clause at 1852.219-76, NASA 8 Percent Goal, in all solicitations and contracts other than those below the simplified acquisition threshold or when the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.71--NASA Rural Area Small Business Plan

1819.7101 Definition.

“**Rural area**” means a county with a population of fewer than twenty thousand individuals.

1819.7102 General.

Pursuant to Public Law 100-590, NASA established a Rural Area Business Enterprise Development Plan, including methods for encouraging prime and subcontractors to use small business concerns located in rural areas as subcontractors and suppliers. One method is to encourage the contractor to use its best efforts to comply with the intent of the statute.

1819.7103 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.219-74, Use of Rural Area Small Businesses, in solicitations and contracts that offer subcontracting possibilities or that are expected to exceed \$500,000 (\$1,000,000 for construction of public facility) unless the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of

PART 1822
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

TABLE OF CONTENTS

1822.000-70	Scope of part.
SUBPART 1822.1	BASIC LABOR POLICIES
1822.101	Labor relations.
1822.101-1	General.
1822.101-3	Reporting labor disputes.
1822.101-4	Removal of items from contractors' facilities affected by work stoppages.
1822.101-70	Admission of labor representatives to contract sites.
1822.103	Overtime.
1822.103-4	Approvals.
1822.103-5	Contract clauses.
SUBPART 1822.3	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
1822.302	Liquidated damages and overtime pay.
SUBPART 1822.4	LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION
1822.400-70	Contacts with the Department of Labor.
1822.404-3	Procedures for requesting wage determinations.
1822.406-8	Investigations.
1822.406-9	Withholding from or suspension of contract payments.
1822.406-13	Semiannual enforcement reports.
SUBPART 1822.6	WALSH-HEALEY PUBLIC CONTRACTS ACT
1822.604	Exemptions.
1822.604-2	Regulatory exemptions.
SUBPART 1822.8	EQUAL EMPLOYMENT OPPORTUNITY
1822.804	Affirmative action programs.
1822.804-2	Construction.
1822.807	Exemptions.
1822.810	Solicitation provisions and contract clauses.
SUBPART 1822.10	SERVICE CONTRACT ACT OF 1965
1822.1001	Definitions.
1822.1008	Procedures for preparing and submitting Notice (SF 98/98a).
1822.1008-270	Additional information for the preparation of SF 98/98a.
1822.1008-7	Required time of submission of Notice.

SUBPART	1822.13	DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
1822.1303		Waivers.
1822.1306		Complaint procedures.
SUBPART	1822.14	EMPLOYMENT OF WORKERS WITH DISABILITIES
1822.1403		Waivers.
1822.1406		Complaint procedures.
SUBPART	1822.15	PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR
1822.1503		Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.

PART 1822
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1822.000-70 Scope of part.

(a) Contracting officers shall consult with the installation labor relations advisor or designee when taking any of the actions prescribed or authorized in FAR Part 22 or NFS Part 1822.

(b) Proposed actions having a substantial impact on the activities of NASA or other Government agencies shall be approved by the Headquarters Contractor Industrial Relations Office (Code JR).

Subpart 1822.1--Basic Labor Policies

1822.101 Labor relations.

1822.101-1 General.

(d) When a strike that may have an adverse effect on NASA programs is imminent or in progress at a prime contractor's or subcontractor's plant, contracting officers shall:

(i) Advise both the prime contractor and the head of the union local in writing of the expected impact of the strike on NASA programs and of the actions NASA is considering to protect the Government's interest and prevent delay in the accomplishment of NASA's mission. If the strike is in a subcontractor's plant, the subcontractor may be approached only through the prime contractor;

(ii) Explore the possibility of locating other sources for the supplies or services to have been provided by the strike-threatened plant; and

(iii) Consider taking the actions described in FAR 22.101-4.

(e) Programs or requirements that result in contracts in excess of the simplified acquisition threshold shall require contractors to notify NASA of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.

1822.101-3 Reporting labor disputes.

Reports of potential or actual labor disputes affecting NASA acquisitions, operations, or services shall be submitted to the Headquarters Contractor Industrial Relations Office (Code JR). These reports shall be made as early as possible and shall include immediately available information. Supplemental reports shall be made to provide appropriate additional information. Reports shall describe at a minimum:

(1) The nature of the potential or actual dispute, including whether a strike, lockout, slow-down, shut-down, or picketing is involved and the degree of emergency presented;

(2) The character, quantity, and importance of the supplies, operations, or services involved, including scheduled performance and delivery dates and their relationship to the total acquisition program;

(3) The identity and location of the parties to the dispute and their representatives, including the approximate number of employees involved;

(4) The need for and availability of alternative resources to furnish the items involved within the time required;

(5) Any critical items that should be removed from the plant or work site or should continue to be processed there with the consent of the parties to the dispute; and

(6) Recommended action to be taken by NASA.

1822.101-4 Removal of items from contractors' facilities affected by work stoppages.

(a) (3) The contracting officer shall obtain approval from Code JR for any contemplated action.

1822.101-70 Admission of labor representatives to contract sites.

NASA activities may not prevent the access of labor union representatives to contract sites for the conduct of union business if their activities are compatible with safety and security regulations and performance of the contract work involved.

1822.103 Overtime.

1822.103-4 Approvals.

(a) The contracting officer is authorized to approve overtime premiums at Government expense. If two or more contracting offices have current contracts at a single facility and approval of overtime by one will affect the performance or cost of contracts of another, the approving official shall obtain the concurrence of other appropriate approving officials and seek agreement as to the contracts under which premiums will be approved. In the absence of evidence to the contrary, a contracting officer may rely on the contractor's statement that approval will not affect performance or payments under any contract of another contracting office.

1822.103-5 Contract clauses.

(a) See 1822.101-1(e).

Subpart 1822.3--Contract Work Hours and Safety Standards Act

1822.302 Liquidated damages and overtime pay.

(c) The Director of the Headquarters Contractor Industrial Relations Office (Code JR) is the agency head designee.

(d) Disposal of funds withheld or collected for liquidated damages shall be in accordance with direction of the Director of Code JR.

Subpart 1822.4--Labor Standards for Contracts Involving Construction

1822.400-70 Contacts with the Department of Labor.

All contacts with the Department of Labor required by FAR Subpart 22.4, except for wage determinations, shall be conducted through the Headquarters Contractor Industrial Relations Office (Code JR). Contracting officers shall submit all pertinent information to Code JR in support of Code JR for contacts. For wage determinations, contracting officers shall submit all requests directly to Goddard Space Flight Center, Contractor Industrial Relations Office - GSFC, Code 201, Greenbelt, Maryland 20771 (GSFC).

1822.404-3 Procedures for requesting wage determinations.

Contracting officers shall submit requests for project wage determinations to GSFC at least 55 days (70 days if possible) before issuing the solicitation.

1822.406-8 Investigations.

(a) The contracting officer is responsible for conducting investigations of labor violations relative to contracts under their cognizance.

(d) Reports of violations shall be sent to Code JR.

1822.406-9 Withholding from or suspension of contract payments.

(c) (4) Code JR shall determine the disposal of funds.

1822.406-13 Semiannual enforcement reports.

Procurement officers shall submit semiannual enforcement data within 20 days after the end of the specified reporting periods to the Headquarters Office of Procurement (Code HK). Negative statements are required.

Subpart 1822.6--Walsh-Healey Public Contracts Act

1822.604 Exemptions.

1822.604-2 Regulatory exemptions.

(b) Requests for exemptions shall be submitted in writing through the contracting officer to the Headquarters Contractor Industrial Relations Office (Code JR).

Subpart 1822.8--Equal Employment Opportunity

1822.804 Affirmative action programs.

1822.804-2 Construction.

(b) The Headquarters Office of Procurement (Code HK) will furnish each procurement officer the listing.

1822.807 Exemptions.

Requests for exemption pursuant to FAR 22.807(a)(1), (a)(2), or (b)(5) shall be sent to the Headquarters Office of Procurement (Code HS).

1822.810 Solicitation provisions and contract clauses.

(e) If an offeror completes a negative representation under FAR 52.222-22, the contracting officer shall obtain the information required by FAR 52.222-26(b)(7) within 30 days of contract award. This information shall be held in confidence as privileged information in accordance with 32 CFR 286.6(b)(4).

Subpart 1822.10--Service Contract Act of 1965

1822.1001 Definitions.

"**Agency labor advisor**" is the Director of the Headquarters Contractor Industrial Relations Office (Code JR). All contacts with other agencies required by FAR Subpart 22.10 shall be conducted through Code JR. Contracting officers shall submit all pertinent information to Code JR in support of the required contacts.

1822.1008 Procedures for preparing and submitting Notice (SF 98/98a).

1822.1008-270 Additional information for the preparation of SF 98/98a.

The information listed below by item number shall be furnished, in addition to that required by the SF 98/98a:

(a) **Item 6.** Insert on the far left side of the block the code identifying the type of proposed action:

Code	Proposed Action
I	New contract (use <u>only</u> when services are not presently being performed).
II	Recompetition of services.
III	Contract modifications affecting the scope of the work.
IV	Extension of contract performance through exercise of an option or otherwise.
V	Other. When a multiple year contract (funding is not subject to annual appropriation) is to be entered into, specify "multiple year R&D funded" on the SF 98.

(b) **Item 8.**

(1) If the proposed contract will be awarded under Section 8(a) of the Small Business Act, insert both the Small Business Administration and the name of the subcontractor.

(2) If no wage determination is available for the particular contract, insert "None" in Item 8.b.

(c) **Item 10.** Add the solicitation number.

(d) **Item 12.**

(1) When entering into a new service contract, list all classes of work expected to be performed under the contract under this item, regardless of whether the class of employees is considered professional, executive, administrative, or hourly. However, if submission of the SF 98/98a is in connection with any action other than a new contract (Code I in paragraph (a) of this subsection), list only the classes of work that the incumbent indicates are "nonexempt."

(2) When classifications include both categories of employees covered by a collective bargaining agreement and those not represented by a union, mark the classifications that are unionized with an asterisk.

(3) If the classification of work is not known, use the most descriptive job title available for the work to be performed under the contract.

(e) **Item 13.** If the number of employees is not known, the estimated hours required to perform the tasks should be indicated so that staffing estimates can be determined and listed.

(f) **Item 14.** Include in this item the wage rates that would be paid if the employees were subject to 5 U.S.C. 5332 (GS grades).

1822.1008-7 Required time of submission of notice.

(a) Contracting officers shall submit the notices to Goddard Space Flight Center, Contract Industrial Relations Office - GSFC, Code 201, Greenbelt, Maryland 20771 (GSFC) at least 70 days before initiating the associated contract actions.

(b) When the circumstances in FAR 22.1008-7(b) apply, contracting officers shall submit the required notices to GSFC at least 40 days before initiating the associated contract actions.

(c) Contracting officers shall contact GSFC before initiating any action when the circumstances in FAR 22.1008-7(c) and (d) apply.

Subpart 1822.13--Disabled Veterans and Veterans of the Vietnam ERA

1822.1303 Waivers.

(c) Requests for waivers shall be submitted to the Associate Administrator for Equal Opportunity Programs (Code E).

1822.1306 Complaint procedures.

Contracting officers shall submit all complaints to the Associate Administrator for Equal Opportunity Programs (Code E).

Subpart 1822.14--Employment of Workers with Disabilities

1822.1403 Waivers.

(c) Requests for waivers shall be submitted to the Associate Administrator for Equal Opportunity Programs (Code E).

1822.1406 Complaint procedures.

Contracting officers shall submit all complaints to the Associate Administrator for Equal Opportunity Programs (Code E).

**Subpart 1822.15--Prohibition of Acquisition of Products Produced by Forced or
Indentured Child Labor**

1822.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.

(e) All investigations under FAR Subpart 22.15 shall be referred to NASA's Office of Inspector General.

PART 1832
CONTRACT FINANCING

TABLE OF CONTENTS

1832.006-2		Definition.
SUBPART	1832.1	NON-COMMERCIAL ITEM PURCHASE FINANCING
1832.111		Contractor clauses for non-commercial purchases.
1832.111-70		NASA contract clause.
SUBPART	1832.2	COMMERCIAL ITEM PURCHASE FINANCING
1832.202-1		Policy.
1832.206		Solicitation provisions and contract clauses.
SUBPART	1832.4	ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS
1832.402		General.
1832.406		Letters of credit.
1832.407		Interest.
1832.409		Contracting officer action.
1832.409-1		Recommendation for approval.
1832.409-170		NASA procedure for approval.
1832.410		Findings, determination, and authorization.
1832.412		Contract clause.
1832.412-70		NASA contract clauses.
SUBPART	1832.5	PROGRESS PAYMENTS BASED ON COSTS
1832.501		General.
1832.501-1		Customary progress payment rates.
1832.501-2		Unusual progress payments.
1832.502		Preaward matters.
1832.502-2		Contract finance office clearance.
1832.502-4		Contract clauses.
1832.502-470		NASA contract clause.
1832.503		Postaward matters.
1832.503-5		Administration of progress payments.
1832.504		Subcontracts.
SUBPART	1832.7	CONTRACT FUNDING
1832.702		Policy.
1832.702-70		NASA policy.
1832.704		Limitation of cost or funds.

1832.704-70		Incrementally funded fixed-price contracts.
1832.705		Contract clauses.
1832.705-2		Clauses for limitation of cost or funds.
1832.705-270		NASA clauses for limitation of cost or funds.
SUBPART	1832.9	PROMPT PAYMENT
1832.906		Contract financing payments.
1832.908		Contract clauses.
SUBPART	1832.10	PERFORMANCE-BASED PAYMENTS
1832.1001		Policy.
1832.1004		Procedure.
1832.1005		Contract clauses.
1832.1009		Title.
SUBPART	1832.11	ELECTRONIC FUNDS TRANSFER
1832.1110		Solicitation provision and contract clauses.

PART 1832
CONTRACT FINANCING

1832.006-2 Definition.

The Associate Administrator for Procurement is the Agency remedy coordination official.

Subpart 1832.1--Non-Commercial Item Purchase Financing

1832.111 Contract clauses for non-commercial purchases.

1832.111-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.232-79, Payment for On-Site Preparatory Costs, in solicitations and contracts for construction on a fixed-price basis when progress payments are contemplated and pro rata payment of on-site preparatory costs to the contractor is appropriate.

Subpart 1832.2--Commercial Item Purchase Financing

1832.202-1 Policy.

(b)(6) Advance payment limitations do not apply to expendable launch vehicle (ELV) service contracts. (See 1832.402).

1832.206 Solicitation provisions and contract clauses.

(g)(2) The installment payment rate shall be that which is common in the commercial marketplace for the purchased item. If there is no commonly used rate, the contracting officer shall

determine the appropriate rate. In no case shall the rate exceed that established in the clause at FAR 52.232-30.

Subpart 1832.4--Advance Payments for Non-Commercial Items

1832.402 General.

(e)(1) The Director of the Headquarters Office of Procurement Contract Management Division (Code HK) is the approval authority for all advance payments except the following:

(A) The procurement officer is the approval authority for non-fee bearing contracts with domestic entities when the cumulative contract value is \$25,000,000 or less, and for all increases to such contracts over \$25,000,000 previously approved by the Headquarters Office of Procurement as long as the advance payment amount outstanding at any time is not increased.

(B) The contracting officer is the approval authority for the following actions. In these cases, a findings and determination (see FAR 32.410) is not required.

(a) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I contracts. A class deviation has been signed authorizing use of advance payments on these contracts. The contracting officer shall annotate the contract file that the deviation is on file at the NASA Headquarters Office of Procurement (Code HK).

(b) Expendable launch vehicle (ELV) service contracts. 42 U.S.C. 2459c authorizes advance payments for these contracts. The contracting officer shall document the contract file with the rationale for approving the use of advance payments.

(e)(2) All advance payment authorization requests, except those authorized by 1832.402(e)(1)(B), shall be coordinated with the installation Deputy Chief Financial Officer.

1832.406 Letters of credit.

(b)(1) Each installation is considered a contracting agency for the purposes of this requirement.

1832.407 Interest.

(d)(1) Advance payments without interest are authorized.

1832.409 Contracting officer action.

1832.409-1 Recommendation for approval.

1832.409-170 NASA procedure for approval.

In addition to the items listed in FAR 32.409-1, requests for Headquarters approval of advance payments (see 1832.402(e)(1)) shall include the following information:

(a) Name of the cognizant NASA Headquarters program or staff office;

(b) Name and phone number of the contracting officer or negotiator;

(c) A copy of the proposed advance payments clause;

(d) If a profit/fee is contemplated, the factors considered in determining the profit/fee (see 1815.404-470);

(e) Information justifying the adequacy of security to cover the maximum advance payment amount at any time outstanding.

1832.410 Findings, determination, and authorization.

(b) Generally, the format in FAR 32.410 should be used, tailored as follows:

(i) In format subparagraph (a)(2), use the phrase "Advance payments (in an amount not to exceed \$..... at any time outstanding)" in all determinations and findings. The phrase means the maximum unliquidated dollar amount a contractor would need in advance payments at any point in time for the particular contract. The amount would not usually be the full contract value. The amount inserted should be based on an analysis of the contractor's financing needs (monthly or other appropriate period) for the specific contract involved.

(ii) In the second sentence of format subparagraph (a)(4), delete the reference to a special financial institution account if no special financial institution account is required.

(iii) Use format subparagraph (a)(6), not (a)(7) or (a)(8).

(iv) At the end of format paragraph (b), use "is in the public interest."

(v) in format paragraph (c), use the phrase "(the amount at any time outstanding)" in all determinations and findings.

1832.412 Contract clause.

(e) The contracting officer shall use Alternates IV and V when advance payments are provided on Phase I contracts of the Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR) programs.

(f) See 1832.412(e).

1832.412-70 NASA contract clauses.

When the clause at FAR 52.232-12 or its Alternates II or V are used, insert the clause at 1852.232-70, NASA Modification of FAR 52.232-12.

Subpart 1832.5--Progress Payments Based on Costs

1832.501 General.

1832.501-1 Customary progress payment rates.

(a) The customary progress payment rate for all NASA contracts is 85 percent for large business, 90 percent for small business, 95 percent for small disadvantaged business, and 100 percent for Phase II contracts in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. The contracting officer shall insert the applicable percentage in paragraphs (a) and (b) of the clause at FAR 52.232-16.

1832.501-2 Unusual progress payments.

The Director of the Headquarters Office of Procurement Contract Management Division (Code HK) is the approval authority for the use of unusual progress payments.

(a) *Scope.* An NRA is used to announce research interests in support of NASA's programs, and, after peer or scientific review using factors in the NRA, select proposals for funding. Unlike an RFP containing a statement of work or specification to which offerors are to respond, an NRA provides for the submission of competitive project ideas, conceived by the offerors, in one or more program areas of interest. An NRA shall not be used when the requirement is sufficiently defined to specify an end product or service.

(b) *Issuance.*

(1) Before issuance, each field-generated NRA shall be approved by the installation director or designee, with the concurrence of the procurement officer, and each Headquarters-generated NRA shall be approved by the cognizant Program Associate Administrator or designee, with the concurrence of the Headquarters Offices of General Counsel (Code GK) and Procurement (Code HS). In addition, the issuing office shall obtain input from the cognizant offices responsible for matters of safety and mission assurance, occupational health, environmental protection, information technology, export control, and security. Input shall also be obtained from the appropriate systems safety organization for NRA's that may involve potentially hazardous operations such as those related to flight and/or mission critical ground systems. The NRA approval authority shall designate the selection official.

(2) The selection official shall assure that the NRA is synopsisized prior to issuance in accordance with FAR 5.201. The synopsis shall be brief, and the technical section describing the area of interest should not exceed 50 words.

(3) If a Headquarters-generated NRA may result in awards by a NASA field installation, the issuing office shall notify the installation procurement officer and provide a copy of the NRA.

(4) The selecting official is responsible for the preparation and distribution of the NRA.

(5) NRAs normally shall remain open for at least 90 days.

(c) *Content.* The NRA shall consist of the following sections and items. The entire package shall be provided in response to requests.

(1) *Cover.* The cover shall display:

(i) "OMB Approval Number 2700-0087" in the upper right corner.

(ii) Title.

(iii) "NASA Research Announcement Soliciting Research Proposals for the Period Ending
".

(iv) NRA number.

(v) Official address for the office issuing the NRA.

(2) *Summary and Supplemental Information.*

(i) The Summary and Supplemental Information should not exceed two pages and shall include:

(A) Title and NRA number.

(B) The following statement concerning safety:

" Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including employees working under NASA instruments), and (4) high-value equipment and property.

(C) Introductory paragraphs describing the purpose of the NRA and the period for receipt of proposals.

(D) Address for submitting proposals.

(E) Number of copies required.

(F) Selecting official's title.

(G) Names, addresses, and telephone numbers for the technical and contracting points of contact.

(H) The following statement when the NRA is to be issued before funds are available:

"Funds are not currently available for awards under this NRA. The Government's obligation to make award(s) is contingent upon the availability of appropriated funds from which payment can be made and the receipt of proposals that NASA determines are acceptable for award under this NRA."

(ii) The Summary and Supplemental Information may include estimates of the amount of funds that will be available and the number of anticipated awards. A breakdown of the estimates by research area may also be shown.

(3) *Technical Description.* The first page shall contain the NRA number and title at the top. A brief description not exceeding two pages is preferable, but it should be detailed enough to enable ready comprehension of the research areas of interest. Specifications containing detailed statements of work should be avoided. Any program management information included must be limited to matters that are essential for proposal preparation.

(4) *Instructions for Responding to NASA Research Announcements.* The NRA shall contain instructions as stated in 1852.235-72 (see 1835.070(c)).

(d) *Receipt of proposals, evaluation, and selection.*

(1) Proposals shall be protected as provided in FAR 15.608, FAR 15.609, and 1815.609-70.

(2) Late proposals and modifications shall be treated in accordance with 1815.208.

(3) The selection decision shall be made following peer or scientific review of a proposal. Peer or scientific review shall involve evaluation by an in-house specialist, a specialist outside NASA, or both. Evaluation by specialists outside NASA shall be conducted subject to the conditions in 1815.207. After receipt of a proposal and before selection, scientific or engineering personnel shall communicate with an offeror only for the purpose of clarification (as defined in FAR 15.306), or to understand the meaning of some aspect of the proposal that is not clear, or to obtain confirmation or substantiation of a proposed approach, solution, or cost estimate.

(4) Competitive range determinations shall not be made, and final proposal revisions shall not be requested.

(5) Part of a proposal may be selected unless the offeror requests otherwise. In addition, changes to a selected proposal may be sought if (i) the ideas or other aspects of the proposal on which selection is based are contained in the proposal as originally submitted, and are not introduced by the changes; and (ii) the changes sought would not involve a material alteration to the requirements stated in the NRA. Changes that would affect a proposal's selection shall not be sought. When changes are desired, the selecting official may request revisions from the offeror or request the contracting officer to implement them during negotiations with the successful offeror(s). The changes shall not transfer information from one offeror's proposal to another offeror (see FAR 15.306(e)). When collaboration between offerors would improve proposed research programs, collaboration may be suggested to the offerors.

(6) The basis for selection of a proposal shall be documented in a selection statement applying the evaluation factors in the NRA. The selection statement represents the conclusions of the selecting official and must be self-contained. It shall not incorporate by reference the evaluations of the reviewers.

(7) The selecting official shall notify each offeror whose proposal was not selected for award and explain generally why the proposal was not selected. If requested, the selecting official shall arrange a debriefing under FAR 15.5, with the participation of a contracting officer.

(8) The selecting official shall forward to the contracting officer the following information:

(i) A copy of the NRA (This requirement may be waived in the case of a grant award at the discretion of the grant officer);

(ii) The results of the technical evaluation, including the total number of proposals received, the selection statement, and the listing of proposal(s) selected for funding (These requirements may be waived in the case of a grant award at the discretion of the grant officer if the purchase request specifically references the NRA number and states that the proposal forwarded for funding was selected under the NRA.);

(iii) A description of any changes desired in any offeror's statement of work, including the reasons for the changes and any effect on level of funding;

(iv) If a contract will be used to fund the proposal, a description of deliverables, including technical reports, and delivery dates, consistent with the requirements of the NRA;

(v) A procurement request;

(vi) Comments on the offeror's cost proposal (either the selecting official's comments, which may be based on the reviewers' comments, or copies of the reviewers' comments with any different conclusions of the selecting official); these comments shall address the need for and reasonableness of travel, computer time, materials, equipment, subcontracted items, publication costs, labor hours, labor mix, and other costs; and

(vii) A copy of the selected proposal as originally submitted, any revisions, and any correspondence from the successful offeror.

(9) The selecting official may provide to the contracting officer copies of the reviewers' evaluations. Reviewers' names and institutions may be omitted.

(10) The selecting official may provide each offeror whose proposal was selected for negotiation a notification stating:

(i) The proposal has been selected for negotiation;

(ii) The offeror's business office will be contacted by a contracting officer, who is the only official authorized to obligate the Government; and

(iii) Any costs incurred by the offeror in anticipation of an award are at the offeror's risk.

(e) *Award.* The contracting officer shall choose the appropriate award instrument. If a contract is selected, the contracting officer shall--

(1) Advise the offeror that the Government contemplates entering into negotiations; the type of contract contemplated; and the estimated award date, anticipated effort, and delivery schedule;

(2) Send the offeror a model contract, if necessary, including modifications contemplated in the offeror's statement of work, and request agreement or identification of any exceptions (the contract statement of work may summarize the proposed research, state that the research shall be conducted in accordance with certain technical sections of the proposal (which shall be identified by incorporating them into the contract by reference), and identify any changes to the proposed research);

(3) Request the offeror to complete and return certifications and representations and Standard Form 33, Solicitation, Offer, and Award, or other appropriate forms. If FAR 52.219-9, Small Business Subcontracting Plan, is required for the resultant contract, request the offeror to provide a subcontracting plan;

- (4) Conduct negotiations in accordance with FAR Subparts 15.3 and 15.4, as applicable;
- (5) Award a contract; and
- (6) Comply with FAR Subparts 4.6 and 5.3 on contract reporting and synopses of contract awards.

(f) *Cancellation of an NRA.* When program changes, program funding, or any other reasons require cancellation of an NRA, the office issuing the NRA shall notify potential offerors by using the mailing list for the NRA.

1835.016-72 Foreign participation in NRA proposals.

Foreign proposals or U.S. proposals with foreign participation shall be treated in accordance with 1835.016-70. Additional guidelines applicable to foreign proposers are contained in the provision at 1852.235-72, Instructions for Responding to NASA Research Announcements.

1835.070 NASA contract clauses and solicitation provision.

(a) The contracting officer must insert the clause at 1852.235-70, Center for AeroSpace Information - Final Scientific and Technical Reports, in all research and development contracts, interagency agreements, and in cost-reimbursement supply contracts involving research and development work.

(b) The contracting officer shall insert the clause at 1852.235-71, Key Personnel and Facilities, in contracts when source selection has been substantially predicated upon the possession by a given offeror of special capabilities, as represented by key personnel or facilities.

(c) The contracting officer shall ensure that the provision at 1852.235-72, Instructions for Responding to NASA Research Announcements, is inserted in all NRAs. The instructions may be supplemented, but only to the minimum extent necessary.

(a) The contracting officer shall insert the provision at 1852.236-71, Additive or Deductive Items, in invitations for bids for construction when it is desired to add or deduct bid items to meet available funding.

(b) The contracting officer shall insert the provision at 1852.236-72, Bids with Unit Prices, in invitations for bids for construction when the invitation contemplates unit prices of items.

(c) The contracting officer shall insert the clause at 1852.236-73, Hurricane Plan, in solicitations and contracts for construction at sites that experience hurricanes.

(d) The contracting officer shall insert the provision at 1852.236-74, Magnitude of Requirement, in solicitations for construction. Insert the appropriate estimated dollar range in accordance with FAR 36.204.

Subpart 1836.6--Architect-Engineer Services

1836.602 Selection of firms for architect-engineer contracts.

1836.602-1 Selection criteria.

(a)(2) The evaluation of specialized experience and technical competence shall be limited to the immediately preceding ten years.

(a)(4) The evaluation of past performance shall be limited to the immediately preceding ten years.

(a)(6) The architect-engineer selection board may also establish evaluation criteria regarding the volume of work previously awarded to the firm by NASA, with the object of effecting an equitable distribution of contracts among qualified architect-engineer firms, including minority-owned firms and firms that have not had prior NASA contracts.

1836.602-2 Evaluation boards.

(a) Installations shall establish an architect-engineer selection board to be composed of the selection authority and at least three voting members. Membership shall at least include: one currently registered architect or professional engineer, who shall serve as the board chairperson; an official from the requiring office; if appropriate, a technical official familiar with any unique subject matter critical to the requirement; and a procurement official (a contracting officer, if feasible) as an ad hoc advisor to the board. Where appropriate, the procurement official may serve as a voting member. Non-Government employees shall not be appointed as voting members.

1836.602-4 Selection authority.

(a) The selection authority shall be appointed in accordance with installation procedures.

1836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

The procedures at FAR 36.602-5(a) or (b) may be used at the discretion of the selection authority.

1836.602-70 Selection of architect-engineer for master planning.

(a) **Definition of master plan.** A master plan is an integrated series of documents presenting in graphic, narrative, and tabular form the present composition of the installation and the plan for its orderly and comprehensive development to perform its various missions in the most efficient and economical manner.

(b) Selection.

(1) Selection of an architect-engineer for the development of a master plan in connection with the establishment of a new NASA activity or installation shall be made by the Associate Administrator having institutional responsibility. The report of the architect-engineer selection board will be concurred in at NASA Headquarters by the Associate Administrator for Management Systems and Facilities, the Associate Administrator for Procurement, the Chief Financial Officer, and the General Counsel.

(2) The Associate Administrator for Management Systems and Facilities shall be responsible for the architect-engineer selection board report required by FAR 36.602-3(d) before presentation to the Associate Administrator having institutional responsibility.

1836.603 Collecting data on and appraising firms' qualifications.

The architect-engineer selection boards (see 1836.602-2) are designated as NASA's evaluation boards for the purposes of FAR 36.603.

1836.605 Government cost estimate for architect-engineer work.

(b) The contracting officer may disclose the overall amount of the Government estimate after award upon request of offerors.

**Subpart 1836.7--Standard and Optional Forms for Contracting for
Construction, Architect-Engineer Services, and Dismantling, Demolition,
or Removal of Improvements**

1836.702 Forms for use in contracting for architect-engineer services.

(a)(i) Instructions for completing Standard Form 252, Architect-Engineer Contract, are as follows:

(A) Block 5-Project Title and Location. Include a short description of the construction project and the estimated cost of constructing the facilities for the project. If the space provided is insufficient, include a more detailed description in the contract's specification/work statement and identify the location of the more detailed description in Block 10.

(B) Block 6-Contract For (General description of services to be provided). Include a brief description of the services and state that they are fully set out in the specification/work statement. Clearly specify the date by which design services must be completed. If supervision and inspection services during construction are to be acquired, clearly specify the date by which they must be completed and add a statement that the Government may extend the period for their performance as provided in the Changes clause of the contract.

(C) Block 7-Contract Amount. If the contract is for both design and supervision and inspection services, set out the amounts for each effort separately.

(ii) The services to be furnished by an architect-engineer should be carefully defined during negotiation of the contract and a statement of them inserted in the contract's specification/work statement. The statement should clearly and concisely set forth the nature and extent of the services and include any special services, such as the nature and extent of subsurface exploration prior to

PART 1837
SERVICE CONTRACTING

TABLE OF CONTENTS

SUBPART	1837.1	SERVICE CONTRACTS--GENERAL
1837.101		Definitions.
1837.104		Personal services contracts.
1837.110		Solicitation provisions and contract clauses.
1837.110-70		NASA solicitation provision and contract clauses.
1837.170		Pension portability.
SUBPART	1837.2	ADVISORY AND ASSISTANCE SERVICES
1837.203		Policy.
1837.204		Guidelines for determining availability of personnel.

PART 1837
SERVICE CONTRACTING

Subpart 1837.1--Service Contracts--General

1837.101 Definitions.

“**Pension portability**” means the recognition and continuation in a successor service contract of the predecessor service contract employees' pension rights and benefits.

1837.104 Personal services contracts.

(b) Section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)) authorizes NASA "to obtain services as authorized by Section 3109 of Title 5, United States Code." It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities, and procedures pertaining to the appointment of experts and consultants are in NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants.

1837.110 Solicitation provisions and contract clauses.

1837.110-70 NASA solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.237-70, Emergency Evacuation Procedures, in solicitations and contracts for on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornadoes, earthquakes, or other emergencies.

(b) The contracting officer shall insert the clause at 1852.237-71, Pension Portability, in solicitations, contracts or negotiated contract modifications for additional work when the procurement officer makes the determination in 1837.170(a)(2).

(c) The contracting officer shall insert the provision at 1852.237-72, Identification of Uncompensated Overtime, in cost reimbursement contracts expected to exceed \$1,000,000.

1837.170 Pension portability.

(a) It is NASA's policy not to require pension portability in service contracts. However, pension portability requirements may be included in solicitations, contracts, or contract modifications for additional work under the following conditions:

(1)(i) There is a continuing need for the same or similar services for a minimum of five years (inclusive of options), and, if the contractor changes, a high percentage of the predecessor contractor's employees are expected to remain with the program; or

(ii) The employees under a predecessor contract were covered by a portable pension plan, a follow-on contract or a contract consolidating existing services is awarded, and the total contract period covered by the plan covers a minimum of five years (including both the predecessor and successor contracts); and

(2) The procurement officer determines in writing, with full supporting rationale, that such a requirement is in the Government's best interest. The procurement officer shall maintain a record of all such determinations.

(b) When pension portability is required, the plan shall comply with the requirements of the clause at 1852.237-71, Pension Portability, (see 1837.110-70(b)), and the contract shall also include a clear description of the plan, including service, pay, liabilities, vesting, termination, and benefits from prior contracts.

Subpart 1837.2--Advisory and Assistance Services

1837.203 Policy.

(c) Advisory and assistance services of individual experts and consultants shall normally be obtained by appointment rather than by contract (see NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants).

1837.204 Guidelines for determining availability of personnel.

(a)(i) Outside peer review evaluators may be used to evaluate SBIR, STTR, NRA, AO, and unsolicited proposals without making the determination of non-availability.

(ii) For all other actions, the NASA official one level above the NASA program official responsible for the evaluation shall make the determination, with the concurrence of the legal office. The contracting officer shall ensure that a copy of the determination is in the contract file prior to issuance of a solicitation.

(b) The official designated in paragraph (a)(ii) of this section is responsible for the actions required in FAR 37.204(b).

(c) The agreement shall be made by the program official responsible for the evaluation and the contracting officer.

(e) The Associate Administrator for Procurement (Code HS) is the approval authority for class determinations. The class determination request shall include the assessment required by FAR 37.204(b).

(vi) For contracts placed directly with Canadian firms, audits are requested by the contracting officer from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by SF 1034, are forwarded to the contracting officer for further processing and transmittal to the fiscal or financial management officer. Periodic advisory audit reports are furnished directly to the contracting officer.

1842.202-70 Retention of contract administration.

(a) The assignment of contract administration is optional for the following contracts:

- (1) Research and development study contracts not involving deliverable hardware or Government furnished property.
- (2) Contracts with delivery schedules of 90 days or less.
- (3) Purchase orders without Government source inspection requirements.
- (4) Contracts requiring only on-site performance.
- (5) Contracts requiring work in the vicinity of the awarding center where DOD contract administration services are not reasonably available.

1842.270 Contracting officer technical representative (COTR) delegations.

(a) The cognizant contracting officer may appoint a qualified Government employee to act as their representative in managing the technical aspects of a particular contract. If necessary, the contracting officer may appoint an alternate COTR to act during short absences of the COTR. Technical organizations are responsible for ensuring that the individual they recommend to the contracting officer possesses training, qualifications and experience commensurate with the duties and responsibilities to be delegated and the nature of the contract.

(b) NASA Form 1634, Contracting Officer Technical Representative (COTR) Delegation, shall be used to appoint COTRs. A COTR's duties and responsibilities may not be redelegated by the COTR and the COTR may be held personally liable for unauthorized acts. However, this does not prohibit the COTR from receiving assistance for the purpose of monitoring contractor progress and gathering information. When an individual is appointed as a COTR on more than one contract, separate delegations shall be issued for each contract. A separate NASA Form 1634 will be used to appoint an alternate COTR.

(c) A COTR delegation remains in effect throughout the life of the contract unless canceled in writing by the cognizant contracting officer or at any level above that contracting officer. The contracting officer may modify the delegation only by issuance of a new delegation canceling and superseding the existing delegation.

(d) A COTR shall not be authorized to initiate procurement actions or in any way cause a change to the contract or increase the Government's financial obligations. However, delegations may be made to construction contract COTRs to sign emergency on-site change orders with an estimated value not to exceed the value specified in writing by the contracting officer in the NASA Form 1634 but in no event to exceed \$25,000.

(e) Each COTR shall acknowledge receipt and accept the delegation by signing the original delegation letter. The original of the COTR delegation letter shall be filed in the applicable contract file. Copies of the signed COTR delegation letter shall be distributed to the COTR, the contractor, and each cognizant contract administration office. Acknowledgment and distribution

for terminations of COTR delegations and COTR delegations which revise authority, duties and responsibilities shall follow the same rules.

(f) (1) Mandatory training for COTRs and their alternates shall include the following core topic areas:

- (i) Contracting authority and contract modifications (including non-personal services and inherently governmental functions);
- (ii) Inspection and surveillance;
- (iii) Changes and performance-based contracting;
- (iv) Contract financial and property management (including "Limitation of Cost" clause, Anti-Deficiency Act, "Limitation of Funds" clause); and
- (v) Disputes.

(2) Procurement officers are responsible for assuring that the course(s) utilized by their center address the mandatory core topics in sufficient detail for the purpose of COTR training. Procurement officers may accept the following training alternative(s) in satisfaction of comparable requirement(s) specified in paragraph (f)(1) of this section:

- (i) Another center's COTR training; or
- (ii) Annual ethics training.

(g) The contracting officer shall verify that the COTR has received the mandatory training before signing NASA Form 1634. If an urgent need arises for the appointment of a COTR and no trained and otherwise qualified individual is available, then the procurement officer may make a temporary COTR appointment not to exceed six months. Temporary appointments must be so identified and clearly reflect the appointment expiration date.

(h) No technical direction may be issued by a COTR relative to performance-based contract requirements or when serving under a temporary appointment.

1842.271 NASA clause.

Insert the clause at 1852.242-70, Technical Direction, when paragraph 3(m) of the NASA Form 1634 specifically authorizes a COTR to issue technical direction.

Subpart 1842.3--Contract Administration Office Functions

1842.302 Contract administration functions.

(a) In addition to the responsibilities listed in FAR 42.302(a), responsibility for reviewing earned value management system (EVMS) plans and verifying initial and continuing contractor compliance with NASA and DoD EVMS criteria and conformity with ANSI/EIA Standard 748, Industry Guidelines for EVMS, is normally delegated to DCMC.

Subpart 1842.5--Postaward Orientation

1842.503 Postaward conferences.

(1) A postaward conference shall be held with representatives of the contract administration office when --

- (i) A contract is expected to exceed \$10,000,000;
- (ii) Contract performance is required at or near a NASA installation or NASA-controlled launch site;

ensure that audit recommendations are resolved within 6 months after receipt of the audit report and corrected as expeditiously as possible.

(c)(1) The identification and tracking of contract audit reports under NASA cognizance are accomplished in cooperation with the DCAA.

(2) Identification and tracking of OMB Circular No. A-133 audit reports are accomplished in cooperation with the NASA Office of the Inspector General (OIG).

(d)(1) All reportable contract audit reports as defined by Chapter 15, Section 6, of the DCAA Contract Audit Manual (CAM) shall be reported quarterly to the Headquarters Office of Procurement (Code HK); and

(2) Only OMB Circular No. A-133 audit reports involving the following shall be reported quarterly to Code HK:

(i) A significant management control issue; or

(ii) Questioned costs of \$10,000 or more due to an audit finding (see Subpart E-Auditor, paragraph 510 of OMB Circular No. A-133).

(3) NASA contracting officers will maintain a dialogue with DOD Administrative Contracting Officers (ACO) who have been delegated activities on NASA contracts. A review will be conducted no less frequently than semiannually, and the status and disposition of significant audit findings will be documented in the contract file. During this review, NASA contracting officers should discuss with the ACO both prime and subcontract audit reports that have been delegated to DOD. Should these reports contain any findings or recommendations, the NASA contracting officer should obtain their status and document the contract file accordingly.

(e)(1) The terms “resolution” and “corrective action/disposition” are defined as follows:

(i) Resolution - The point at which the IG and Management agree on the action to be taken on audit report findings and recommendations.

(ii) (ii) Corrective action/disposition –Management action responsive to an agreed upon audit recommendation.

(2) The resolution and disposition of OMB Circular No. A-133 audits are handled as follows:

(i) Audit findings pertaining to an individual NASA award are the responsibility of the procurement officer administering that award.

(ii) Audit findings having a Governmentwide impact are the responsibility of the cognizant Federal agency responsible for oversight. For organizations subject to OMB Circular No. A-133, there is either a cognizant agency or an oversight agency. The cognizant agency is the Federal agency that provides the predominant amount of direct funding to the recipient organization unless OMB makes a specific cognizant agency for audit assignment. To provide for the continuity of cognizance, the determination of the predominant amount of direct funding will be based on the direct Federal awards expended in the recipient’s fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. When there is no direct funding, the Federal agency with the predominant indirect funding is to assume the oversight responsibilities. In cases where NASA is the cognizant or oversight Federal agency, audit resolution and disposition is the responsibility of the procurement officer for the Center having the largest amount of direct funding, or, if there is no direct funding, the largest amount of indirect funding for the audited period. A copy of the memorandum dispositioning the findings shall be provided by each Center having resolution responsibility for the particular report to the Headquarters OIG office and Code HK.

Subpart 1842.74--Earned Value Management

1842.7401 Earned Value Management Systems (EVMS).

When an offeror or contractor is required to provide an EVMS plan to the Government in accordance with NASA Policy Directive (NPD) 9501.3, Earned Value Management, the contracting officer shall forward a copy of the plan to the cognizant administrative contracting officer (ACO) to obtain the assistance of the ACO in determining the adequacy of the proposed EVMS plan.

1842.7402 Solicitation provisions and contract clauses.

(a) When the Government requires Earned Value Management, the contracting officer shall insert:

(1) The provision at 1852.242-74, Notice of Earned Value Management System, in solicitations; and

(2) The clause at 1852.242-75, Earned Value Management System, in solicitations and contracts.

(b) The contracting officer shall insert the clause at 1852.242-76, Modified Cost Performance Report, in solicitations and contracts requiring modified cost performance reporting (see NPD 9501.3, Earned Value Management).

(c) The contracting officer shall insert the provision at 1852.242-77, Modified Cost Performance Report Plans, in solicitations for contracts requiring modified cost performance reporting (see NPD 9501.3).

PART 1843
CONTRACT MODIFICATIONS

TABLE OF CONTENTS

SUBPART	1843.2	CHANGE ORDERS
1843.205		Contract clauses.
1843.205-70		NASA contract clauses.
SUBPART	1843.70	UNDEFINITIZED CONTRACT ACTIONS
1843.7001		Definitions.
1843.7002		Policy.
1843.7003		Procedures.
1843.7004		Exceptions.
1843.7005		Definitization.
SUBPART	1843.71	SHARED SAVINGS
1843.7101		Shared Savings Program.
1843.7102		Solicitation provision and contract clause.

PART 1843
CONTRACT MODIFICATIONS

Subpart 1843.2--Change Orders

1843.205 Contract clauses.

As authorized in the prefaces of clauses FAR 52.243-1, Changes--Fixed Price; FAR 52.243-2, Changes--Cost Reimbursement; and FAR 52.243-4, Changes; and in the prescription at 43.205(c) for FAR 52.243-3, Changes--Time-and-Material or Labor-Hours, the period within which a contractor must assert its right to an equitable adjustment may be varied not to exceed 60 calendar days.

1843.205-70 NASA contract clauses.

(a)(1) The contracting officer may insert in contracts a clause substantially the same as 1852.243-70, Engineering Change Proposals, when ECPs are expected. Paragraphs (c) and (d) of the basic clause and Alternate I of the clause shall be changed to reflect the specific type of contract

(2) If it is desirable to preclude a large number of small-dollar, contractor-initiated engineering changes and to reduce the administrative cost of reviewing them, the contracting officer shall use the clause with its Alternate I.

(3) If the contract is a cost-reimbursement type, the contracting officer shall use the clause with its Alternate II.

(b) The contracting officer may insert a clause substantially as stated at 1852.243-72, Equitable Adjustments, in solicitations and contracts for –

- (1) Dismantling, demolishing, or removing improvements; or
- (2) Construction, when the contract amount is expected to exceed the simplified acquisition threshold and a fixed-price contract is contemplated.

Subpart 1843.70--Undefinitized Contract Actions

1843.7001 Definitions.

"**Undefinitized contract action (UCA)**" means a unilateral or bilateral contract modification or delivery/task order in which the final price or estimated cost and fee have not been negotiated and mutually agreed to by NASA and the contractor. (Issuance of letter contracts and their modifications are governed by subpart 1816.6.)

1843.7002 Policy.

Undefinitized contract actions shall be executed by contracting officers on an exception basis and shall be limited to the minimum urgent requirements. The contract file for all UCAs shall be documented to justify issuance and shall include a Government estimate for the changed requirements.

1843.7003 Procedures.

(a) Issuance of undefinitized contract actions with a Government estimated cost or price over \$1,000,000 must be approved in writing by the Center Director. This approval authority is not delegable. Issuance of undefinitized contract actions with a Government estimated cost or price less than or equal to \$1,000,000 shall also be minimized but may be approved on an exception basis in accordance with installation procedures.

(b)(1) Undefinitized contract actions exceeding \$1,000,000 approved by the Center Director shall be issued as bilateral agreements setting forth a ceiling price or "not to exceed" estimated cost figure for the changed contractual requirements. For fixed price contracts the negotiated price for the changed contract requirements shall not exceed the established ceiling price. In the case of cost type contracts any costs eventually negotiated for the changed requirements in excess of the "not to exceed" estimated cost figure shall be non-fee bearing. The ceiling price or "not to exceed" estimated cost figures shall be separately identified in the UCA instrument from the pricing structure of the basic contract.

(2) The Center Director may waive the ceiling price or "not to exceed" estimated cost figure and bilateral agreement requirements prior to UCA issuance on the basis of urgency. This waiver authority is not delegable. Any waivers shall be documented in the contract file.

(c) The changed contractual requirements set forth in the UCA shall be clearly defined and shall be limited to the minimum effort required to satisfy urgent program requirements while a cost proposal is prepared, analyzed and negotiated.

(d) For undefinitized contract actions with a Government estimate greater than \$1,000,000 and not excepted under subpart 1843.7004, a 180 day funding profile shall be obtained from the contractor prior to execution of the undefinitized contract action.

PART 1844
SUBCONTRACTING POLICIES AND PROCEDURES

TABLE OF CONTENTS

SUBPART	1844.2	CONSENT TO SUBCONTRACTS
1844.201		Consent and advance notification requirements.
1844.201-1		Consent requirements.
1844.202		Contracting officer's evaluation.
1844.202-1		Responsibilities.
1844.204		Contract clauses.
1844.204-70		NASA contract clause.
 SUBPART	 1844.3	 CONTRACTORS' PURCHASING SYSTEMS REVIEWS
1844.302		Requirements.
1844.302-70		DCMA-conducted contractor purchasing system reviews
1844.302-71		NASA-conducted contractor purchasing systems reviews.
1844.304		Surveillance.
1844.304-70		Contracting officer surveillance.
1844.305		Granting, withholding, or withdrawing approval.
1844.305-70		Review of CPSR reports.

PART 1844
SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1844.2--Consent to Subcontracts

1844.201 Consent and advance notification requirements.

1844.201-1 Consent requirements.

(a)(i) In determining special surveillance consent requirements, the contracting officer should consider specific subcontract awards, as well as any individual systems, subsystems, components, technologies, and services that should have contracting officer consent prior to being subcontracted.

(ii) For each planned contract award expected to exceed \$1 million in total estimated value (inclusive of options), the contracting officer should consider such factors as the following to determine whether certain subcontracts require special surveillance:

- (A) The degree of subcontract pricing uncertainties at the time of contract award;
- (B) The overall quality of the contractor's approach to pricing subcontracts;
- (C) The extent of competition achieved, or to be achieved, by the contractor in the award of subcontracts;
- (D) Technical complexity and the criticality of specific supplies, services, and technologies on the successful performance of the contract; and

(E) The potential impact of planned subcontracts on source selection or incentive arrangements.

(iii) The contracting officer shall document results of the review in the contract file. For contract modifications and change orders, the contracting officer shall make the determination required by paragraph (a)(ii) of this section whenever the value of any subcontract resulting from the change order or modification is proposed to exceed the dollar threshold for obtaining cost or pricing data (see FAR15.403-4(a)(1)) or is one of a number of subcontracts with a single subcontractor for the same or related supplies or services that are expected cumulatively to exceed the dollar threshold for obtaining cost or pricing data.

(iv) In addition, any subcontract under a cost type prime contract shall be identified for special surveillance if consent was not provided at the time of contract award and cost or pricing data would be required in accordance with FAR 15.404-3(c).

1844.202 Contracting officer's evaluation.

1844.202-1 Responsibilities.

(a) NASA contracting officers shall retain consent to subcontract authority unless delegation is approved in writing by the procurement officer.

1844.204 Contract clauses.

1844.204-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.244-70, Geographic Participation in the Aerospace Program, in all research and development solicitations and contracts of \$500,000 or over that will be performed within the United States.

Subpart 1844.3--Contractors' Purchasing Systems Reviews

1844.302 Requirements.

1844.302-70 DCMA-conducted contractor purchasing system reviews.

For contracts within their cognizance, NASA contracting officers shall be aware of purchasing system approval status and should become actively involved with the Defense Contract Management Agency (DCMA) in the Contractor Purchasing System Review (CPSR) process. Involvement should include the following:

- (a) Verifying that CPSRs are being conducted in accordance with FAR 44.302.
- (b) Ensuring that purchasing system review specifically includes the business unit performing the NASA contract.
- (c) Actively participating as a team member, or arranging NASA representation, on DCMA CPSRs to review areas of NASA-specific interest. At a minimum, such participation or representation shall be arranged when the DCMA CPSR review involves--
 - (1) Contractors with major NASA programs;
 - (2) Contractors' business units where the total dollar value of NASA contracts is substantial; or
 - (3) Any contractor system where the contracting officer has special concerns.

(d) Ensuring that the selected CPSR sample to be reviewed reflects the level of NASA business in the contractor's purchasing organization.

(e) Providing to the cognizant DCMA CPSR team leader any areas of special emphasis regarding the contractor's purchasing system to ensure that the review is tailored to address any NASA concerns.

1844.302-71 NASA-conducted contractor purchasing system reviews.

If a NASA activity is the cognizant contract administration office, or after coordination with the cognizant DCMA CPSR office it is determined that a CPSR is required but cannot be accomplished by DCMA, then a CPSR should be conducted by NASA personnel. The NASA CPSR team leader:

(a) May use the DOD FAR Supplement, Contractor Purchasing System Review (CPSR) guidance, as a general guide to conducting the CPSR.

(b) May vary the scope of review depending on the contractor and contracts involved.

(c) Shall maintain close coordination with the cognizant ACO during CPSRs at contractors under DOD cognizance.

1844.304 Surveillance.

1844.304-70 Contracting officer surveillance.

(a) In the period between complete CPSRs, NASA contracting officers shall maintain a sufficient level of surveillance to ensure contractor purchasing efforts in support of NASA contracts are accomplished in an appropriate manner and protect the interests of the Agency.

(b) Surveillance shall be accomplished primarily through performance of subcontract consent reviews. Other methods of surveillance, including periodic reviews of contractor purchasing records, may also be conducted. Contracting officers shall document the results of subcontract consent reviews and periodic reviews, maintaining a record of contractor subcontract or purchase order award performance on NASA contracts. Contractor performance shall be summarized on an annual basis and provided to the ACO cognizant of the contractor's purchasing system. Annual reports should summarize the number of consent reviews and other reviews conducted during the year by NASA representatives, and summarize the types and quantity of deficiencies identified during reviews, the need for special reviews, and recommended areas of emphasis during future CPSRs.

1844.305 Granting, withholding, or withdrawing approval.

1844.305-70 Review of CPSR reports.

ACO actions related to purchasing system approval have a potential impact on NASA contracting officer consent requirements. Accordingly, NASA contracting officers shall review system deficiencies documented in CPSR reports and when results of consent reviews and other sources conflict with CPSR or DOD surveillance conclusions, formally communicate such concerns to the ACO having cognizance of purchasing system approval. Significant issues or significant conflicts with DOD CPSR results should be formally referred to the Office of Procurement (Code HS).

(A) I.2 BID ENVELOPES (GSFC 52.214-90) (AUGUST 1987) This example is applicable when identifying the title of provisions and clauses in solicitations and contracts using the uniform contract format (UCF). The first number ("I.2") designates the UCF section and the sequential clause within that section. "GSFC 52.214-90" specifies the clause number.

(B) GSFC 52.214-90--Bid Envelopes (AUGUST 1987) This example is applicable in all instances in which the provision or clause citation is not associated with the UCF number.

(c) Contracting officers shall not number provisions and clauses developed for individual acquisitions only. For example, "F.3 Delivery Procedures for Special Hardware" cites the third clause in Section F of a contract using the UCF, but has no clause number or date identified with it, indicating that the clause was developed for the particular contract it appears in.

1852.103-70 Identification of modified provisions and clauses.

When a FAR clause or provision is included in a solicitation or contract and the NFS prescribes a modification, the title line shall identify the modification as shown below. This format shall be used both for incorporation by reference and when using full text.

"52.232-28 Electronic Funds Transfer Payment Methods (APR 1989)--as modified by
NASA FAR Supplement 1832.908(a)"

1852.104 Procedures for modifying and completing provisions and clauses.

NFS provisions and clauses shall not be modified unless authorized by the NFS. When authorized, contracting officers must comply with the procedures in FAR 52.104.

Subpart 1852.2--Text of Provisions and Clauses

1852.203-70 Display of Inspector General Hotline Posters.

As prescribed in 1803.7001, insert the following clause:

DISPLAY OF INSPECTOR GENERAL HOTLINE POSTERS (JUNE 2001)

(a) The Contractor shall display prominently in common work areas within business segments performing work under this contract, Inspector General Hotline Posters available under paragraph (b) of this clause.

(b) Inspector General Hotline Posters may be obtained from NASA Office of Inspector General, Code W, Washington, DC, 20546-0001, (202) 358-1220.

(End of clause)

1852.204-74 Central Contractor Registration.

As prescribed in 1804.7404, insert the following clause:

CENTRAL CONTRACTOR REGISTRATION (OCTOBER 2001)

(a) *Definitions.* As used in this clause--

(1) **"Central Contractor Registration (CCR) database"** means the primary DoD repository for contractor information required for the conduct of business with NASA.

(2) **"Data Universal Number System (DUNS) number"** means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) **"Data Universal Numbering System +4 (DUNS+4) number"** means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent

(controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying sub-units or affiliates of the parent business concern.

(4) **“Commercial and Government Entity Code (CAGE Code)”** means –

(i) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(ii) A code assigned by a member of the North Atlantic Treaty Organization (NATO) that is recorded and maintained by DLIS in the CAGE master file.

(5) **“Registered in the CCR database”** means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding CAGE code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors performing work outside of the United States.

(2) The Contracting Officer will verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award after March 31, 2001.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr2000.com> or by calling 888-CCR-2423 (888-227-2423).

(End of clause)

1852.204-75 Security Classification Requirements.

As prescribed in 1804.404-70, insert the following clause:

SECURITY CLASSIFICATION REQUIREMENTS (SEPTEMBER 1989)

Performance under this contract will involve access to and/or generation of classified information, work in a security area, or both, up to the level of _____ [insert the applicable security clearance level]. See Federal Acquisition Regulation clause 52.204-2 in this contract and DD Form 254, Contract Security Classification Specification, Attachment ____ [Insert the attachment number of the DD Form 254].

(End of clause)

(f) The Contractor shall afford NASA, including the Office of Inspector General, access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection, investigation and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of NASA data or to the function of computer systems operated on behalf of NASA, and to preserve evidence of computer crime.

(g) The Contractor shall incorporate the substance of this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(End of clause)

1852.208-81 Restrictions on Printing and Duplicating.

As prescribed in 1808.870, insert the following clause:

**RESTRICTIONS ON PRINTING AND DUPLICATING
(OCTOBER 2001)**

(a) The Contractor may duplicate or copy any documentation required by this contract in accordance with the provisions of the Government Printing and Binding Regulations, No. 26, S. Pub 101-9, U.S. Government Printing Office, Washington, DC, 20402, published by the Joint Committee on Printing, U.S. Congress.

(b) The Contractor shall not perform, or procure from any commercial source, any printing in connection with the performance of work under this contract. The term "printing" includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes and equipment.

(c) The Contractor is authorized to duplicate or copy production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 units in the aggregate of multiple pages. Such pages may not exceed a maximum image size of 10-3/4 by 14-1/4 inches. A "production unit" is one sheet, size 8-1/2 x 11 inches (215 x 280 mm), one side only, and one color ink.

(d) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the Contractor to respond to the terms of the contract).

(e) Costs associated with printing, duplicating, or copying in excess of the limits in paragraph (c) of this clause are unallowable without prior written approval of the Contracting Officer. If the Contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating or copying, it immediately shall provide written notice to the Contracting Officer and request approval prior to proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with the provisions of the Government Printing and Binding Regulations, NFS 1808.802, and NPG 1490.5, NASA Procedures and Guidelines for Printing, Duplicating, and Copying Management.

(f) The Contractor shall include in each subcontract which may involve a requirement for any printing, duplicating, and copying in excess of the limits specified in paragraph (c) of this clause, a provision substantially the same as this clause, including this paragraph (f).

(End of clause)

1852.209-70 Product Removal from Qualified Products List.

As prescribed in 1809.206-71, insert the following clause:

**PRODUCT REMOVAL FROM QUALIFIED PRODUCTS LIST
(DECEMBER 1988)**

If, during the performance of this contract, the product being furnished is removed from the Qualified Products List for any reason, the Government may terminate the contract for Default pursuant to the default clause of the contract.

(End of clause)

1852.209-71 Limitation of Future Contracting.

As prescribed in 1809.507-2, the contracting officer may insert a clause substantially as follows in solicitations and contracts, in compliance with FAR 9.507-2:

**LIMITATION OF FUTURE CONTRACTING
(DECEMBER 1988)**

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5--Organizational Conflicts of Interest.

(b) The nature of this conflict is [describe the conflict].

(c) The restrictions upon future contracting are as follows:

(1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing NASA contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). NASA shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

(2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

(End of clause)

1852.209-72 Composition of the Contractor.

As prescribed in 1809.670, insert the following clause:

**COMPOSITION OF THE CONTRACTOR
(DECEMBER 1988)**

If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract.

(End of clause)

**SAFETY AND HEALTH PLAN
(SEPTEMBER 2001)**

The offeror shall submit a detailed safety and occupational health plan as part of its proposal (see NPG 8715.3, NASA Safety Manual, Appendices). The plan must include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of contractor employees and to ensure the safety of all working conditions throughout the performance of the contract. The plan must similarly address safety and occupational health for subcontractor employees for any proposed subcontract whose value is expected to exceed \$500,000, including commercial services and services provided in support of a commercial item. Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including other contractor employees working on NASA contracts), and (4) high-value equipment and property. This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(End of provision)

**ALTERNATE I
(OCTOBER 2001)**

As prescribed in 1823.7001(c), delete the first sentence of the basic provision and substitute the following:

The apparent low bidder, upon request by the Contracting Officer, shall submit a detailed safety and occupational health plan (see NPG 8715.3, NASA Safety Manual, Appendices). The plan shall be submitted within the time specified by the Contracting Officer. Failure to submit an acceptable plan shall make the bidder ineligible for the award of a contract.

1852.223-74 Drug- and alcohol-free workforce.

As prescribed in 1823.570-3, insert the following clause:

**DRUG- AND ALCOHOL-FREE WORKFORCE
(MARCH 1996)**

(a) **Definitions.** As used in this clause the terms "**employee**," "**controlled substance**," "**employee in a sensitive position**," and "**use, in violation of applicable law or Federal regulation, of alcohol**" are as defined in 48 CFR 1823.570-2.

(b)(1) The Contractor shall institute and maintain a program for achieving a drug-and alcohol-free workforce. As a minimum, the program shall provide for preemployment, reasonable suspicion, random, post-accident, and periodic recurring (follow-up) testing of contractor employees in sensitive positions for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Contractor may establish its testing or rehabilitation program in cooperation with other contractors or organizations.

(2) This clause neither prohibits nor requires the Contractor to test employees in a foreign country. If the Contractor chooses to conduct such testing, this clause does not authorize the Contractor to violate foreign law in conducting such testing.

(3) The Contractor's program shall test for the use of marijuana and cocaine. The Contractor's program may test for the use of other controlled substances.

(4) The Contractor's program shall conform to the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" published by the Department of Health and Human Services (59 FR 29908, June 9, 1994) and the procedures in 49 CFR part 40, "Procedures for

Transportation Workplace Drug Testing Programs," in which references to "DOT" shall be read as "NASA", and the split sample method of collection shall be used.

(c)(1) The Contractor's program shall provide, where appropriate, for the suspension, disqualification, or dismissal of any employee in a sensitive position in any instance where a test conducted and confirmed under the Contractor's program indicates that such individual has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.

(2) The Contractor's program shall further prohibit any such individual from working in a sensitive position on a NASA contract, unless such individual has completed a program of rehabilitation described in paragraph (d) of this clause.

(3) The Contractor's program shall further prohibit any such individual from working in any sensitive position on a NASA contract if the individual is determined under the Contractor's program to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance and the individual meets any of the following criteria:

(i) The individual had undertaken or completed a rehabilitation program described in paragraph (d) of this clause prior to such use;

(ii) Following such determination, the individual refuses to undertake such a rehabilitation program;

(iii) Following such determination, the individual fails to complete such a rehabilitation program; or

(iv) The individual used a controlled substance or alcohol while on duty.

(d) The Contractor shall institute and maintain an appropriate rehabilitation program which shall, as a minimum, provide for the identification and opportunity for treatment of employees whose duties include responsibility for safety-sensitive, security, or National security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

(e) The requirements of this clause shall take precedence over any state or local Government laws, rules, regulations, ordinances, standards, or orders that are inconsistent with the requirements of this clause.

(f) For any collective bargaining agreement, the Contractor will negotiate the terms of its program with employee representatives, as appropriate, under labor relations laws or negotiated agreements. Such negotiation, however, cannot change the requirements of this clause. Employees covered under collective bargaining agreements will not be subject to the requirements of this clause until those agreements have been modified, as necessary; provided, however, that if one year after commencement of negotiation the parties have failed to reach agreement, an impasse will be determined to have been reached and the Contractor will unilaterally implement the requirements of this clause.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts in which work is performed by an employee in a sensitive position, except subcontracts for commercial items (see FAR parts 2 and 12).

(End of clause)

1852.223-75 Major Breach of Safety or Security.

As prescribed in 1823.7001(d), insert the following clause:

**MAJOR BREACH OF SAFETY OR SECURITY
(MAY 2001)**

(a) Safety is the freedom from those conditions that can cause death, injury, occupational

(End of clause)

1852.242-77 Modified Cost Performance Report Plans.

As prescribed in 1842.7402(c), insert the following provision;

MODIFIED COST PERFORMANCE PLANS

(MARCH 1999)

(a) The offeror shall submit in its proposal a written summary of the management procedures it will establish, maintain, and use in the performance of any resultant contract to comply with the requirements of the clause at 1852.242-76, Modified Cost Performance Report.

(b) The offeror may propose to use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer as:

(1) Complying with the earned value management system criteria of NASA Policy Directive 9501.3, Earned Value Management, or DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems Acquisition Programs; or

(2) Conforming with the full intentions of the guidelines presented in ANSI/EIA Standard 748, Industry Guidelines for Earned Value Management Systems.

In such cases, the offeror may submit a copy of the documentation of such recognition instead of the written summary required by paragraph (a) of this provision.

(End of provision)

1852.242-78 Emergency Medical Services and Evacuation.

As prescribed in 1842.7003, insert the following clause:

EMERGENCY MEDICAL SERVICES AND EVACUATION

(APRIL 2001)

The Contractor shall, at its own expense, be responsible for making all arrangements for emergency medical services and evacuation, if required, for its employees while performing work under this contract outside the United States or in remote locations in the United States. If necessary to deal with certain emergencies, the Contractor may request the Government to provide medical or evacuation services. If the Government provides such services, the Contractor shall reimburse the Government for the costs incurred.

(End of clause)

1852.243-70 Engineering Change Proposals.

As prescribed in 1843.205-70(a)(1), insert the following clause, modified to suit contract type:

ENGINEERING CHANGE PROPOSALS

(OCTOBER 2001)

(a) Definitions.

“ECP” means an Engineering Change Proposal (ECP) which is a proposed engineering change and the documentation by which the change is described, justified, and submitted to the procuring activity for approval or disapproval.

(b) Either party to the contract may originate ECPs. Implementation of an approved ECP may occur by either a supplemental agreement or, if appropriate, as a written change order to the contract.

(c) Any ECP submitted to the Contracting Officer shall include a "not-to-exceed" ____ [price or estimated cost] increase or decrease adjustment amount, if any, and the required [time of delivery or period of performance] adjustment, if any, acceptable to the originator of the ECP. If the change is originated within the Government, the Contracting Officer shall obtain a written agreement with the contractor regarding the "not-to-exceed" ____ [price or estimated cost] and

[delivery or period of performance] adjustments, if any, prior to issuing an order for implementation of the change.

(d) After submission of a contractor initiated ECP, the contracting officer may require the contractor to submit the following information:

(1) Cost or pricing data in accordance with FAR 15.403-5 if the proposed change meets the criteria for its submission under FAR 15.403-4; or

(2) Information other than cost or pricing data adequate for contracting officer determination of price reasonableness or cost realism. The contracting officer reserves the right to request additional information if that provided by the contractor is considered inadequate for that purpose. If the contractor claims applicability of one of the exceptions to submission of cost or pricing data, it shall cite the exception and provide rationale for its applicability.

(e) If the ECP is initiated by NASA, the contracting officer shall specify the cost information requirements, if any.

(End of clause)

ALTERNATE I

(JULY 1997)

As prescribed in 1843.205-70(a)(2), add the following paragraph (f), modified to suit contract type, to the basic clause:

(f) If the ____ [price or estimated cost] adjustment proposed for any Contractor-originated ECP is ____ [insert a percent or dollar amount of the contract price or estimated cost] or less, the ECP shall be executed with no adjustment to the contract ____ [price or estimated cost].

ALTERNATE II

(SEPTEMBER 1990)

As prescribed in 1843.205-70(a)(3), add the following sentence at the end of paragraph (c) of the basic clause:

An ECP accepted in accordance with the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost in the contract Schedule, unless the estimated cost is increased by the change order or other contract modification.

1852.243-71 Shared Savings.

As prescribed in 1843.7102, insert the following clause:

SHARED SAVINGS

(MARCH 1997)

(a) The Contractor is entitled, under the provisions of this clause, to share in cost savings resulting from the implementation of cost reduction projects which are presented to the Government in the form of Cost Reduction Proposals (CRP) and approved by the Contracting Officer. These cost reduction projects may require changes to the terms, conditions or statement of work of this contract. Any cost reduction projects must not change the essential function of